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CUMULATIVE TABLE OF VIRGINIA ADMINISTRATIVE CODE SECTIONS ADOPTED, AMENDED, OR REPEALED

The table printed below lists regulation sections, by Virginia Administrative Code (VAC) title, that have been amended, added or repealed in the *Virginia Register* since the regulations were originally published or last supplemented in VAC (the Spring 2002 VAC Supplement includes final regulations published through *Virginia Register* Volume 18, Issue 11, dated February 11, 2002). Emergency regulations, if any, are listed, followed by the designation "emer," and errata pertaining to final regulations are listed. Proposed regulations are not listed here. The table lists the sections in numerical order and shows action taken, the volume, issue and page number where the section appeared, and the effective date of the section.

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
Title 2. Agriculture			
2 VAC 5-400-10	Amended	18:21 VA.R. 2768	8/1/02
2 VAC 5-400-20	Amended	18:21 VA.R. 2768	8/1/02
2 VAC 5-400-30	Amended	18:21 VA.R. 2768	8/1/02
2 VAC 5-400-50	Amended	18:21 VA.R. 2768	8/1/02
2 VAC 5-400-80	Amended	18:21 VA.R. 2768	8/1/02
2 VAC 5-400-90	Added	18:21 VA.R. 2768	8/1/02
2 VAC 5-610-10 through 2 VAC 5-610-80	Amended	18:21 VA.R. 2768	8/1/02
Title 4. Conservation and Natural Resources			
4 VAC 5-35-10 through 4 VAC 5-35-50	Repealed	18:14 VA.R. 1800	4/25/02
4 VAC 5-36-10 through 4 VAC 5-36-210	Added	18:14 VA.R. 1800-1827	4/25/02
4 VAC 20-252-150	Amended	18:21 VA.R.	5/29/02-6/27/02
4 VAC 20-252-150	Amended	18:22 VA.R. 2927	6/19/02
4 VAC 20-270-30	Amended	18:14 VA.R. 1827	3/5/02
4 VAC 20-270-40	Amended	18:14 VA.R. 1828	3/5/02
4 VAC 20-270-55	Amended	18:14 VA.R. 1828	3/5/02
4 VAC 20-270-56	Added	18:14 VA.R. 1828	3/5/02
4 VAC 20-430-50	Amended	18:18 VA.R. 2287	5/1/02
4 VAC 20-430-60	Amended	18:18 VA.R. 2287	5/1/02
4 VAC 20-560-20	Erratum	18:14 VA.R. 1911	--
4 VAC 20-560-20 emer	Amended	18:14 VA.R. 1904	3/4/02-3/31/02
4 VAC 20-560-20	Amended	18:16 VA.R. 2054	4/1/02
4 VAC 20-560-50 emer	Amended	18:14 VA.R. 1905	3/4/02-3/31/02
4 VAC 20-560-50	Amended	18:16 VA.R. 2055	4/1/02
4 VAC 20-620-20	Amended	18:14 VA.R. 1828	3/5/02
4 VAC 20-620-40	Amended	18:12 VA.R. 1646	1/31/02
4 VAC 20-620-50	Amended	18:14 VA.R. 1828	3/5/02
4 VAC 20-620-50	Amended	18:21 VA.R.	6/1/02-6/30/02
4 VAC 20-620-50	Amended	18:22 VA.R. 2927	6/19/02
4 VAC 20-620-60	Amended	18:14 VA.R. 1829	3/5/02
4 VAC 20-620-60	Erratum	18:21 VA.R. 2846	--
4 VAC 20-620-60	Amended	18:21 VA.R.	6/1/02-6/30/02
4 VAC 20-620-60	Amended	18:22 VA.R. 2928	6/19/02
4 VAC 20-620-70	Amended	18:14 VA.R. 1829	3/5/02
4 VAC 20-620-70	Amended	18:21 VA.R.	6/1/02-6/30/02
4 VAC 20-620-70	Amended	18:22 VA.R. 2928	6/19/02
4 VAC 20-670-30 emer	Amended	18:22 VA.R. 2935	6/20/02-7/20/02
4 VAC 20-720-47 emer	Added	18:12 VA.R. 1697	2/1/02-2/28/02
4 VAC 20-752-10	Amended	18:21 VA.R. 2769	6/1/02
4 VAC 20-752-20	Amended	18:21 VA.R. 2769	6/1/02
4 VAC 20-752-30	Amended	18:21 VA.R. 2769	6/1/02
4 VAC 20-910-45	Amended	18:21 VA.R. 2769	6/1/02
4 VAC 20-910-45	Erratum	18:21 VA.R. 2846	--
4 VAC 20-950-30	Amended	18:14 VA.R. 1829	3/4/02
4 VAC 20-950-40	Amended	18:14 VA.R. 1829	3/4/02

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4 VAC 20-950-45	Amended	18:12 VA.R. 1647	1/31/02
4 VAC 20-950-45	Amended	18:14 VA.R. 1830	3/4/02
4 VAC 20-950-45	Amended	18:16 VA.R. 2055	4/1/02
4 VAC 50-20-30	Amended	18:14 VA.R. 1831	7/1/02
4 VAC 50-20-50	Amended	18:14 VA.R. 1832	7/1/02
4 VAC 50-20-50	Erratum	18:17 VA.R. 2183	--
4 VAC 50-20-70	Amended	18:14 VA.R. 1832	7/1/02
4 VAC 50-20-120	Amended	18:14 VA.R. 1834	7/1/02
4 VAC 50-20-220	Amended	18:14 VA.R. 1834	7/1/02
4 VAC 50-20-320	Amended	18:14 VA.R. 1835	7/1/02
Title 6. Criminal Justice and Corrections			
6 VAC 15-40-10	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-40	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-90 through 6 VAC 15-40-130	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-150	Amended	18:20 VA.R. 2584	7/17/02
6 VAC 15-40-155	Added	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-160	Amended	18:20 VA.R. 2585	7/17/02
6 VAC 15-40-280	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-290	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-360 through 6 VAC 15-40-390	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-393	Added	18:20 VA.R. 2585	7/17/02
6 VAC 15-40-395	Added	18:20 VA.R. 2585	7/17/02
6 VAC 15-40-400	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-410	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-450	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-460	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-470	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-490	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-520	Amended	18:20 VA.R. 2585	7/17/02
6 VAC 15-40-540 through 6 VAC 15-40-580	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-620	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-640 through 6 VAC 15-40-670	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-690	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-740	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-800 through 6 VAC 15-40-830	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-833	Added	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-835	Added	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-840	Amended	18:20 VA.R. 2585	7/17/02
6 VAC 15-40-870	Amended	18:20 VA.R. 2585	7/17/02
6 VAC 15-40-900	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-910	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-920	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-940 through 6 VAC 15-40-970	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-1020	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-1030	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-1040	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-1070	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-1080	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-1100	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-1110	Repealed	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-1130	Repealed	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-1190	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 15-40-1193	Added	18:20 VA.R. 2585	7/17/02
6 VAC 15-40-1195	Added	18:20 VA.R. 2585	7/17/02
6 VAC 15-40-1200	Amended	18:20 VA.R. 2585	7/17/02
6 VAC 15-40-1330	Amended	18:20 VA.R. 2583	7/17/02

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
6 VAC 15-40-1350	Amended	18:20 VA.R. 2583	7/17/02
6 VAC 20-171-10	Amended	18:15 VA.R. 1955	5/10/02
6 VAC 20-171-50	Amended	18:15 VA.R. 1957	5/10/02
6 VAC 20-171-120	Amended	18:15 VA.R. 1958	5/10/02
6 VAC 20-171-200	Amended	18:15 VA.R. 1958	5/10/02
6 VAC 20-171-220	Amended	18:15 VA.R. 1959	5/10/02
6 VAC 20-171-230	Amended	18:15 VA.R. 1960	5/10/02
6 VAC 20-171-240	Amended	18:15 VA.R. 1961	5/10/02
6 VAC 20-171-250	Amended	18:15 VA.R. 1961	5/10/02
6 VAC 20-171-260	Amended	18:15 VA.R. 1962	5/10/02
6 VAC 20-171-280	Amended	18:15 VA.R. 1963	5/10/02
6 VAC 20-171-310	Amended	18:15 VA.R. 1964	5/10/02
6 VAC 20-171-320	Amended	18:15 VA.R. 1964	5/10/02
6 VAC 20-171-330	Amended	18:15 VA.R. 1965	5/10/02
6 VAC 20-171-340	Amended	18:15 VA.R. 1965	5/10/02
6 VAC 20-171-350	Amended	18:15 VA.R. 1966	5/10/02
6 VAC 20-171-350	Erratum	18:20 VA.R. 2680	--
6 VAC 20-171-445	Amended	18:15 VA.R. 1968	5/10/02
6 VAC 20-171-450	Amended	18:15 VA.R. 1968	5/10/02
6 VAC 20-171-480	Amended	18:15 VA.R. 1968	5/10/02
6 VAC 20-171-520	Amended	18:15 VA.R. 1969	5/10/02
6 VAC 20-171-530	Amended	18:15 VA.R. 1969	5/10/02
6 VAC 20-171-540	Amended	18:15 VA.R. 1969	5/10/02
Title 8. Education			
8 VAC 20-21-10	Amended	18:12 VA.R. 1648	3/28/02
8 VAC 20-21-40	Amended	18:12 VA.R. 1649	3/28/02
8 VAC 20-21-50	Amended	18:12 VA.R. 1650	3/28/02
8 VAC 20-21-90	Amended	18:12 VA.R. 1651	3/28/02
8 VAC 20-21-100	Amended	18:12 VA.R. 1651	3/28/02
8 VAC 20-21-120	Amended	18:12 VA.R. 1652	3/28/02
8 VAC 20-21-170	Amended	18:12 VA.R. 1653	3/28/02
8 VAC 20-21-590	Amended	18:12 VA.R. 1653	3/28/02
8 VAC 20-21-660	Amended	18:12 VA.R. 1655	3/28/02
8 VAC 20-21-680	Amended	18:12 VA.R. 1656	3/28/02
8 VAC 20-80-30	Amended	18:12 VA.R. 1657	3/27/02
8 VAC 20-80-40	Amended	18:12 VA.R. 1660	3/27/02
8 VAC 20-80-54	Amended	18:12 VA.R. 1661	3/27/02
8 VAC 20-80-56	Amended	18:12 VA.R. 1664	3/27/02
8 VAC 20-80-60	Amended	18:12 VA.R. 1666	3/27/02
8 VAC 20-80-66	Amended	18:12 VA.R. 1668	3/27/02
8 VAC 20-80-70	Amended	18:12 VA.R. 1671	3/27/02
8 VAC 20-80-76	Amended	18:12 VA.R. 1676	3/27/02
8 VAC 20-630-10 through 8 VAC 20-630-70	Added	18:12 VA.R. 1683-1684	3/28/02
8 VAC 40-70-10 through 8 VAC 40-70-50	Amended	18:21 VA.R. 2770-2773	7/1/02
8 VAC 40-120-10 through 8 VAC 40-120-50	Amended	18:21 VA.R. 2774-2778	7/31/02
8 VAC 40-120-55	Added	18:21 VA.R. 2778	7/31/02
8 VAC 40-120-60 through 8 VAC 40-120-140	Amended	18:21 VA.R. 2778-2787	7/31/02
8 VAC 40-120-190	Amended	18:21 VA.R. 2787	7/31/02
8 VAC 40-120-210 through 8 VAC 40-120-230	Amended	18:21 VA.R. 2787-2788	7/31/02
8 VAC 40-120-250	Amended	18:21 VA.R. 2788	7/31/02
8 VAC 40-120-270	Amended	18:21 VA.R. 2788	7/31/02
8 VAC 40-120-280	Amended	18:21 VA.R. 2788	7/31/02
8 VAC 40-130-10	Amended	18:21 VA.R. 2789	7/1/02
8 VAC 40-130-25	Added	18:21 VA.R. 2790	7/1/02
8 VAC 40-130-30	Amended	18:21 VA.R. 2790	7/1/02
8 VAC 40-130-50	Amended	18:21 VA.R. 2791	7/1/02

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
8 VAC 40-130-70	Amended	18:21 VA.R. 2791	7/1/02
8 VAC 40-130-90	Amended	18:21 VA.R. 2791	7/1/02
8 VAC 40-130-100	Repealed	18:21 VA.R. 2791	7/1/02
8 VAC 40-130-120	Amended	18:21 VA.R. 2791	7/1/02
8 VAC 40-130-130	Amended	18:21 VA.R. 2791	7/1/02
8 VAC 40-130-140	Repealed	18:21 VA.R. 2792	7/1/02
8 VAC 40-130-150 through 8 VAC 40-130-180	Amended	18:21 VA.R. 2792	7/1/02
8 VAC 40-130-200	Amended	18:21 VA.R. 2792	7/1/02
8 VAC 40-130-220	Amended	18:21 VA.R. 2793	7/1/02
Title 9. Environment			
9 VAC 5-10-10	Amended	18:21 VA.R. 2793	8/1/02
9 VAC 5-10-20	Amended	18:21 VA.R. 2794	8/1/02
9 VAC 5-20-180	Amended	18:21 VA.R. 2800	8/1/02
9 VAC 5-40-10	Amended	18:21 VA.R. 2802	8/1/02
9 VAC 5-40-20	Amended	18:21 VA.R. 2803	8/1/02
9 VAC 5-40-30	Amended	18:21 VA.R. 2807	8/1/02
9 VAC 5-40-40	Amended	18:21 VA.R. 2808	8/1/02
9 VAC 5-40-50	Amended	18:21 VA.R. 2809	8/1/02
9 VAC 5-40-160 through 9 VAC 5-40-230	Repealed	18:14 VA.R. 1836-1840	5/1/02
9 VAC 5-50-10	Amended	18:21 VA.R. 2810	8/1/02
9 VAC 5-50-20	Amended	18:21 VA.R. 2810	8/1/02
9 VAC 5-50-30	Amended	18:21 VA.R. 2813	8/1/02
9 VAC 5-50-40	Amended	18:21 VA.R. 2814	8/1/02
9 VAC 5-50-50	Amended	18:21 VA.R. 2815	8/1/02
9 VAC 5-50-160 through 9 VAC 5-50-230	Repealed	18:14 VA.R. 1840-1844	5/1/02
9 VAC 5-50-240	Amended	18:20 VA.R. 2586	9/1/02
9 VAC 5-50-250	Amended	18:20 VA.R. 2586	9/1/02
9 VAC 5-50-260	Amended	18:20 VA.R. 2587	9/1/02
9 VAC 5-50-320	Amended	18:20 VA.R. 2587	9/1/02
9 VAC 5-50-390	Amended	18:20 VA.R. 2587	9/1/02
9 VAC 5-60-10	Amended	18:21 VA.R. 2816	8/1/02
9 VAC 5-60-20	Amended	18:21 VA.R. 2816	8/1/02
9 VAC 5-60-30	Amended	18:21 VA.R. 2817	8/1/02
9 VAC 5-60-200 through 9 VAC 5-60-270	Added	18:14 VA.R. 1836-1840	5/1/02
9 VAC 5-60-200	Erratum	18:17 VA.R. 2183	--
9 VAC 5-60-300 through 9 VAC 5-60-370	Added	18:14 VA.R. 1840-1844	5/1/02
9 VAC 5-60-300	Erratum	18:17 VA.R. 2183	--
9 VAC 5-80-10	Repealed	18:20 VA.R. 2587	9/1/02
9 VAC 5-80-11	Repealed	18:20 VA.R. 2608	9/1/02
9 VAC 5-80-1100 through 9 VAC 5-80-1320	Added	18:20 VA.R. 2587-2612	9/1/02
9 VAC 5-80-2000 through 9 VAC 5-80-2090	Amended	18:14 VA.R. 1845-1852	5/1/02
9 VAC 5-80-2100	Repealed	18:14 VA.R. 1852	5/1/02
9 VAC 5-80-2110	Amended	18:14 VA.R. 1852	5/1/02
9 VAC 5-80-2120	Amended	18:14 VA.R. 1852	5/1/02
9 VAC 5-80-2150	Amended	18:14 VA.R. 1853	5/1/02
9 VAC 5-80-2160	Repealed	18:14 VA.R. 1853	5/1/02
9 VAC 5-80-2180	Amended	18:14 VA.R. 1853	5/1/02
9 VAC 5-80-2190	Amended	18:14 VA.R. 1853	5/1/02
9 VAC 5-80-2200	Added	18:14 VA.R. 1853	5/1/02
9 VAC 5-80-2210	Added	18:14 VA.R. 1853	5/1/02
9 VAC 5-80-2220	Added	18:14 VA.R. 1853	5/1/02
9 VAC 5-80-2230	Added	18:14 VA.R. 1853	5/1/02
9 VAC 5-80-2240	Added	18:14 VA.R. 1853	5/1/02
9 VAC 5-91-20	Amended	18:20 VA.R. 2613	10/1/02
9 VAC 5-91-30	Amended	18:20 VA.R. 2619	10/1/02
9 VAC 5-91-41	Repealed	18:20 VA.R. 2621	10/1/02

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 5-91-50	Amended	18:20 VA.R. 2621	10/1/02
9 VAC 5-91-70	Amended	18:20 VA.R. 2622	10/1/02
9 VAC 5-91-120	Amended	18:20 VA.R. 2622	10/1/02
9 VAC 5-91-160 through 9 VAC 5-91-230	Amended	18:20 VA.R. 2622-2623	10/1/02
9 VAC 5-91-260	Amended	18:20 VA.R. 2623	10/1/02
9 VAC 5-91-270	Amended	18:20 VA.R. 2623	10/1/02
9 VAC 5-91-290 through 9 VAC 5-91-340	Amended	18:20 VA.R. 2623-2625	10/1/02
9 VAC 5-91-360	Amended	18:20 VA.R. 2625	10/1/02
9 VAC 5-91-370	Amended	18:20 VA.R. 2625	10/1/02
9 VAC 5-91-380	Amended	18:20 VA.R. 2626	10/1/02
9 VAC 5-91-410 through 9 VAC 5-91-450	Amended	18:20 VA.R. 2626-2636	10/1/02
9 VAC 5-91-460	Repealed	18:20 VA.R. 2636	10/1/02
9 VAC 5-91-470	Repealed	18:20 VA.R. 2636	10/1/02
9 VAC 5-91-480 through 9 VAC 5-91-620	Amended	18:20 VA.R. 2636-2639	10/1/02
9 VAC 5-91-650 through 9 VAC 5-91-720	Amended	18:20 VA.R. 2639-2641	10/1/02
9 VAC 5-91-740	Amended	18:20 VA.R. 2641	10/1/02
9 VAC 5-91-750	Amended	18:20 VA.R. 2641	10/1/02
9 VAC 5-91-770	Repealed	18:20 VA.R. 2641	10/1/02
9 VAC 5-91-780	Repealed	18:20 VA.R. 2641	10/1/02
9 VAC 5-91-790	Amended	18:20 VA.R. 2641	10/1/02
9 VAC 5-91-800	Amended	18:20 VA.R. 2642	10/1/02
9 VAC 5-140-10 through 9 VAC 5-140-940	Added	18:20 VA.R. 2654-2657	7/17/02
9 VAC 5-140-20	Erratum	18:22 VA.R. 2953	--
9 VAC 5-140-60	Erratum	18:22 VA.R. 2953	--
9 VAC 5-140-430	Erratum	18:22 VA.R. 2953	--
9 VAC 5-140-860	Erratum	18:22 VA.R. 2953	--
9 VAC 5-140-870	Erratum	18:22 VA.R. 2953	--
9 VAC 10-20-40	Erratum	18:13 VA.R. 1763	--
9 VAC 10-20-130	Erratum	18:13 VA.R. 1764	--
9 VAC 10-20-181	Erratum	18:13 VA.R. 1764	--
9 VAC 10-20-191	Erratum	18:13 VA.R. 1764	--
9 VAC 20-60	Erratum	18:12 VA.R. 1714	--
9 VAC 20-60-1285	Amended	18:21 VA.R.	7/1/02-6/30/03
Appendix 3.1 of 9 VAC 20-90	Amended	18:21 VA.R.	7/1/02-6/30/03
9 VAC 20-120-10	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-20	Repealed	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-40 through 9 VAC 20-120-100	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-120	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-130	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-150 through 9 VAC 20-120-180	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-200 through 9 VAC 20-120-310	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-330	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-340	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-360	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-370	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-380	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-390	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-410 through 9 VAC 20-120-480	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-500	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-530	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-540	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-560	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-590	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-640	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-680 through 9 VAC 20-120-760	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-770 through 9 VAC 20-120-800	Repealed	18:18 VA.R. 2287	6/19/02

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
9 VAC 20-120-810	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-835	Added	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-840	Amended	18:18 VA.R. 2287	6/19/02
9 VAC 20-120-880	Amended	18:18 VA.R. 2287	6/19/02
Appendix 10.1	Repealed	18:18 VA.R. 2287	6/19/02
Appendix 10.4	Repealed	18:18 VA.R. 2287	6/19/02
9 VAC 20-160-10 through 9 VAC 20-160-40	Amended	18:18 VA.R. 2288-2290	7/1/02
9 VAC 20-160-50	Repealed	18:18 VA.R. 2290	7/1/02
9 VAC 20-160-60 through 9 VAC 20-160-120	Amended	18:18 VA.R. 2290-2292	7/1/02
9 VAC 20-160-130	Repealed	18:18 VA.R. 2292	7/1/02
9 VAC 25-20-110	Amended	18:21 VA.R.	7/1/02-6/30/03
9 VAC 25-20-120	Amended	18:21 VA.R.	7/1/02-6/30/03
9 VAC 25-20-130	Amended	18:21 VA.R.	7/1/02-6/30/03
9 VAC 25-60	Repealed	18:20 VA.R. 2657	7/17/02
9 VAC 25-194-10	Amended	18:19 VA.R. 2452	10/15/02
9 VAC 25-194-40 through 9 VAC 25-194-70	Amended	18:19 VA.R. 2452	10/15/02
9 VAC 25-194-80	Repealed	18:19 VA.R. 2452	10/15/02
9 VAC 25-260-5	Amended	18:20 VA.R. 2658	*
9 VAC 25-260-50	Amended	17:16 VA.R. 2381	6/5/02**
9 VAC 25-260-55	Added	17:16 VA.R. 2381	6/5/02**
9 VAC 25-260-160	Amended	18:20 VA.R. 2658	*
9 VAC 25-260-170	Amended	18:20 VA.R. 2658	*
9 VAC 25-260-310	Amended	18:20 VA.R. 2659	*
9 VAC 25-260-390	Amended	18:20 VA.R. 2661	*
Title 10. Gaming			
10 VAC 5-160-50	Added	18:19 VA.R. 2453	5/15/02
Title 11. Gaming			
11 VAC 10-20-260 through 11 VAC 10-20-310	Amended	18:20 VA.R. 2661-2664	5/22/02
11 VAC 10-20-330	Amended	18:20 VA.R. 2664	5/22/02
11 VAC 10-20-340	Amended	18:20 VA.R. 2671	5/22/02
11 VAC 10-130-10	Amended	18:20 VA.R. 2672	5/22/02
11 VAC 10-130-20	Amended	18:20 VA.R. 2673	5/22/02
11 VAC 10-130-51	Amended	18:20 VA.R. 2674	5/22/02
11 VAC 10-130-52	Added	18:20 VA.R. 2674	5/22/02
11 VAC 10-130-60	Amended	18:20 VA.R. 2674	5/22/02
11 VAC 10-180-10	Amended	18:19 VA.R. 2453	5/10/02
11 VAC 10-180-20	Amended	18:19 VA.R. 2454	5/10/02
11 VAC 10-180-40 through 11 VAC 10-180-90	Amended	18:19 VA.R. 2455-2462	5/10/02
11 VAC 10-180-60	Erratum	18:20 VA.R. 2681	--
Title 12. Health			
12 VAC 5-65	Repealed	18:12 VA.R. 1685	3/27/02
12 VAC 5-66-10 through 12 VAC 5-66-80	Added	18:12 VA.R. 1685-1688	3/27/02
12 VAC 5-66-10 through 12 VAC 5-66-80	Erratum	18:13 VA.R. 1764	--
12 VAC 5-120-10 through 12 VAC 5-120-90	Added	18:16 VA.R. 2057-2058	5/22/02
12 VAC 5-475-10 through 12 VAC 5-475-90	Added	18:12 VA.R. 1691	3/27/02
12 VAC 5-520-10	Amended	18:15 VA.R. 1969	5/8/02
12 VAC 5-520-20	Amended	18:15 VA.R. 1969	5/8/02
12 VAC 5-520-30	Amended	18:15 VA.R. 1969	5/8/02
12 VAC 5-520-30	Erratum	18:18 VA.R. 2369	--
12 VAC 5-520-40 through 12 VAC 5-520-70	Repealed	18:15 VA.R. 1969	5/8/02
12 VAC 5-520-80	Amended	18:15 VA.R. 1969	5/8/02

* 30 days after notice in the *Virginia Register of EPA approval*.

** Notice of effective date published in 18:17 VA.R. 2174

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 5-520-90 through 12 VAC 5-520-120	Repealed	18:15 VA.R. 1969	5/8/02
12 VAC 5-520-130 through 12 VAC 5-520-210	Added	18:15 VA.R. 1969	5/8/02
12 VAC 5-590-10	Amended	18:19 VA.R. 2462	7/3/02
12 VAC 5-590-370	Amended	18:19 VA.R. 2468	7/3/02
12 VAC 5-590-370	Erratum	18:22 VA.R. 2953	--
12 VAC 5-590-410	Amended	18:19 VA.R. 2474	7/3/02
12 VAC 5-590-420	Amended	18:19 VA.R. 2477	7/3/02
12 VAC 5-590-420	Erratum	18:22 VA.R. 2954	--
12 VAC 5-590-440	Amended	18:19 VA.R. 2490	7/3/02
12 VAC 5-590-500	Amended	18:19 VA.R. 2496	7/3/02
12 VAC 5-590-530	Amended	18:19 VA.R. 2496	7/3/02
12 VAC 5-590-540	Amended	18:19 VA.R. 2502	7/3/02
12 VAC 5-590-550	Amended	18:19 VA.R. 2504	7/3/02
12 VAC 5-590 Appendix B	Amended	18:19 VA.R. 2505	7/3/02
12 VAC 5-590 Appendix F	Amended	18:19 VA.R. 2506	7/3/02
12 VAC 5-615-10 through 12 VAC 5-615-470	Added	18:18 VA.R. 2293-2300	7/1/02
12 VAC 30-40-220	Amended	18:18 VA.R. 2304	7/1/02
12 VAC 30-40-280	Amended	18:18 VA.R. 2307	7/1/02
12 VAC 30-40-290	Amended	18:18 VA.R. 2307	7/1/02
12 VAC 30-40-345	Amended	18:18 VA.R. 2308	7/1/02
12 VAC 30-50-190	Amended	18:18 VA.R. 2309	7/1/02
12 VAC 30-50-210	Amended	18:18 VA.R. 2310	7/1/02
12 VAC 30-60-300	Amended	18:18 VA.R. 2312	6/20/02
12 VAC 30-60-303	Added	18:18 VA.R. 2313	6/20/02
12 VAC 30-60-307	Added	18:18 VA.R. 2315	6/20/02
12 VAC 30-60-312	Added	18:18 VA.R. 2315	6/20/02
12 VAC 30-60-316	Added	18:18 VA.R. 2316	6/20/02
12 VAC 30-60-318	Added	18:18 VA.R. 2316	6/20/02
12 VAC 30-70-221 emer	Amended	18:22 VA.R. 2936	7/1/02-6/30/03
12 VAC 30-70-281 emer	Amended	18:22 VA.R. 2938	7/1/02-6/30/03
12 VAC 30-70-351 emer	Amended	18:22 VA.R. 2939	7/1/02-6/30/03
12 VAC 30-80-20	Amended	18:21 VA.R. 2818	8/1/02
12 VAC 30-80-20 emer	Amended	18:22 VA.R. 2939	7/1/02-6/30/03
12 VAC 30-80-25	Added	18:21 VA.R. 2820	8/1/02
12 VAC 30-80-40 emer	Amended	18:22 VA.R. 2941	7/1/02-6/30/03
12 VAC 30-90-10	Amended	18:18 VA.R. 2319	7/1/02
12 VAC 30-90-20	Amended	18:18 VA.R. 2320	7/1/02
12 VAC 30-90-38	Amended	18:18 VA.R. 2321	7/1/02
12 VAC 30-90-40	Amended	18:18 VA.R. 2321	7/1/02
12 VAC 30-90-41	Amended	18:18 VA.R. 2321	7/1/02
12 VAC 30-90-60	Amended	18:18 VA.R. 2324	7/1/02
12 VAC 30-90-271	Amended	18:18 VA.R. 2324	7/1/02
12 VAC 30-90-272	Amended	18:18 VA.R. 2325	7/1/02
12 VAC 30-90-280	Amended	18:18 VA.R. 2325	7/1/02
12 VAC 30-90-300	Repealed	18:18 VA.R. 2327	7/1/02
12 VAC 30-90-301	Repealed	18:18 VA.R. 2327	7/1/02
12 VAC 30-90-302	Repealed	18:18 VA.R. 2327	7/1/02
12 VAC 30-90-303	Repealed	18:18 VA.R. 2327	7/1/02
12 VAC 30-90-304	Repealed	18:18 VA.R. 2327	7/1/02
12 VAC 30-90-305	Added	18:18 VA.R. 2327	7/1/02
12 VAC 30-90-306	Added	18:18 VA.R. 2327	7/1/02
12 VAC 30-90-306	Erratum	18:20 VA.R. 2681	--
12 VAC 30-90-307	Added	18:18 VA.R. 2328	7/1/02
12 VAC 30-110-720	Amended	18:21 VA.R. 2821	8/1/02
12 VAC 30-110-741	Amended	18:21 VA.R. 2823	8/1/02
12 VAC 30-110-831	Added	18:21 VA.R. 2823	8/1/02

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SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
12 VAC 30-120-10 emer	Amended	18:12 VA.R. 1698	2/1/02-1/31/03
12 VAC 30-120-40 emer	Amended	18:12 VA.R. 1699	2/1/02-1/31/03
12 VAC 30-120-50 emer	Amended	18:12 VA.R. 1701	2/1/02-1/31/03
12 VAC 30-120-55 emer	Added	18:12 VA.R. 1702	2/1/02-1/31/03
12 VAC 30-120-60 emer	Amended	18:12 VA.R. 1704	2/1/02-1/31/03
12 VAC 30-141-90	Erratum	18:18 VA.R. 2369	--
12 VAC 30-150-10 through 12 VAC 30-150-100	Added	18:17 VA.R. 2174	6/6/02
12 VAC 30-150	Erratum	18:18 VA.R. 2370	--
12 VAC 35-20	Repealed	18:12 VA.R. 1691	3/27/02
12 VAC 35-102	Repealed	18:18 VA.R. 2330	9/19/02
12 VAC 35-105-10 through 12 VAC 35-105-1410	Added	18:18 VA.R. 2331-2365	9/19/02
12 VAC 35-140	Repealed	18:12 VA.R. 1691	3/27/02
12 VAC 35-150	Repealed	18:12 VA.R. 1691	3/27/02
12 VAC 35-160	Repealed	18:12 VA.R. 1691	3/27/02
12 VAC 35-170	Repealed	18:18 VA.R. 2330	9/19/02
12 VAC 35-200-10	Amended	18:16 VA.R. 2059	5/22/02
12 VAC 35-200-20	Amended	18:16 VA.R. 2060	5/22/02
12 VAC 35-200-30	Amended	18:16 VA.R. 2061	5/22/02
Title 13. Housing			
13 VAC 5-51-11	Amended	18:22 VA.R. 2928	8/15/02
13 VAC 5-51-180	Amended	18:22 VA.R. 2929	8/15/02
13 VAC 5-51-181	Amended	18:22 VA.R. 2929	8/15/02
13 VAC 5-51-182	Amended	18:22 VA.R. 2930	8/15/02
Title 14. Insurance			
14 VAC 5-70-10 through 14 VAC 5-70-40	Amended	18:22 VA.R. 2931-2932	7/1/02
14 VAC 5-70-80	Amended	18:22 VA.R. 2932	7/1/02
14 VAC 5-70-130	Amended	18:22 VA.R. 2933	7/1/02
14 VAC 5-80-160 through 14 VAC 5-80-190	Repealed	18:14 VA.R. 1896	3/31/02
14 VAC 5-140-20 through 14 VAC 5-140-90	Amended	18:21 VA.R. 2824	7/1/02
14 VAC 5-390-20	Amended	18:12 VA.R. 1692	2/1/02
14 VAC 5-390-30	Amended	18:12 VA.R. 1692	2/1/02
14 VAC 5-390-40	Amended	18:12 VA.R. 1692	2/1/02
14 VAC 5-395-20	Amended	18:21 VA.R. 2825	6/3/02
14 VAC 5-395-30 through 14 VAC 5-395-60	Amended	18:21 VA.R. 2825	6/3/02
Title 18. Professional and Occupational Licensing			
18 VAC 45-10-10	Amended	18:19 VA.R. 2508	7/8/02
18 VAC 45-10-20	Amended	18:19 VA.R. 2508	7/8/02
18 VAC 45-10-30	Amended	18:19 VA.R. 2508	7/8/02
18 VAC 45-10-50	Amended	18:19 VA.R. 2508	7/8/02
18 VAC 45-10-90	Amended	18:19 VA.R. 2508	7/8/02
18 VAC 85-20-280 emer	Amended	18:22 VA.R. 2943	6/19/02-6/18/03
18 VAC 85-20-285 emer	Added	18:22 VA.R. 2944	6/19/02-6/18/03
18 VAC 85-20-290 emer	Amended	18:22 VA.R. 2944	6/19/02-6/18/03
18 VAC 85-20-300 emer	Amended	18:22 VA.R. 2944	6/19/02-6/18/03
18 VAC 85-50-35	Added	18:21 VA.R. 2826	7/31/02
18 VAC 85-50-56	Amended	18:21 VA.R. 2826	7/31/02
18 VAC 85-50-115	Amended	18:21 VA.R. 2826	7/31/02
18 VAC 85-50-170	Repealed	18:21 VA.R. 2826	7/31/02
18 VAC 90-20-200	Amended	18:21 VA.R. 2826	7/31/02
18 VAC 90-20-210	Amended	18:21 VA.R. 2826	7/31/02
18 VAC 90-30-20	Amended	18:15 VA.R. 1970	5/8/02
18 VAC 90-30-100	Amended	18:15 VA.R. 1970	5/8/02
18 VAC 90-30-105	Added	18:15 VA.R. 1970	5/8/02
18 VAC 90-30-220	Amended	18:15 VA.R. 1970	5/8/02
18 VAC 90-40-20	Amended	18:15 VA.R. 1977	5/8/02
18 VAC 90-40-50	Amended	18:15 VA.R. 1977	5/8/02

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 90-40-55	Added	18:15 VA.R. 1977	5/8/02
18 VAC 90-40-60	Amended	18:15 VA.R. 1977	5/8/02
18 VAC 90-40-130	Amended	18:15 VA.R. 1977	5/8/02
18 VAC 110-20-20	Amended	18:12 VA.R. 1693	3/27/02
18 VAC 110-20-270	Amended	18:12 VA.R. 1693	3/27/02
18 VAC 110-20-280	Amended	18:12 VA.R. 1693	3/27/02
18 VAC 110-20-285	Amended	18:12 VA.R. 1694	3/27/02
18 VAC 110-20-430	Amended	18:12 VA.R. 1694	3/27/02
18 VAC 125-10-10	Amended	18:12 VA.R. 1694	3/27/02
18 VAC 125-10-20	Amended	18:12 VA.R. 1694	3/27/02
18 VAC 125-10-30	Amended	18:12 VA.R. 1695	3/27/02
18 VAC 125-10-40	Amended	18:12 VA.R. 1695	3/27/02
18 VAC 125-10-60	Amended	18:12 VA.R. 1695	3/27/02
18 VAC 125-10-70	Amended	18:12 VA.R. 1695	3/27/02
18 VAC 125-10-80	Amended	18:12 VA.R. 1695	3/27/02
18 VAC 125-10-100	Amended	18:12 VA.R. 1695	3/27/02
18 VAC 125-30 (Forms)	Amended	18:15 VA.R. 1985	--
18 VAC 125-30-10 through 18 VAC 125-30-50	Amended	18:13 VA.R. 1753-1754	4/10/02
18 VAC 125-30-60	Repealed	18:13 VA.R. 1754	4/10/02
18 VAC 125-30-80	Amended	18:13 VA.R. 1755	4/10/02
18 VAC 125-30-90	Amended	18:13 VA.R. 1755	4/10/02
Title 20. Public Utilities and Telecommunications			
20 VAC 5-300-90	Amended	18:21 VA.R. 2832	6/7/02
20 VAC 5-423-10 through 20 VAC 5-423-90	Added	18:14 VA.R. 1899-1902	3/6/02
Title 22. Social Services			
22 VAC 15-10-10	Amended	18:14 VA.R. 1902	5/1/02
22 VAC 15-10-30	Amended	18:14 VA.R. 1902	5/1/02
22 VAC 15-10-40	Amended	18:14 VA.R. 1902	5/1/02
22 VAC 15-10-50	Amended	18:14 VA.R. 1902	5/1/02
22 VAC 15-10-60	Amended	18:14 VA.R. 1902	5/1/02
22 VAC 15-10-70	Amended	18:14 VA.R. 1902	5/1/02
22 VAC 40-41-10	Amended	18:12 VA.R. 1696	4/1/02
22 VAC 40-41-20	Amended	18:12 VA.R. 1696	4/1/02
22 VAC 40-41-40	Amended	18:12 VA.R. 1696	4/1/02
22 VAC 40-41-50	Amended	18:12 VA.R. 1696	4/1/02
22 VAC 40-41-55	Added	18:12 VA.R. 1696	4/1/02
22 VAC 40-690 (Forms)	Amended	18:22 VA.R. 2945	--
22 VAC 40-880-10	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-30	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-60	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-80	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-110	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-120	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-130	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-170	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-190	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-200 through 22 VAC 40-880-300	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-270	Erratum	18:17 VA.R. 2183	--
22 VAC 40-880-290	Erratum	18:17 VA.R. 2183	--
22 VAC 40-880-320	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-330	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-340	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-360	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-380	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-385	Added	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-410	Amended	18:14 VA.R. 1903	4/24/02

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
22 VAC 40-880-430	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-440	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-480 through 22 VAC 40-880-520	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-550	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-560	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-650	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-670	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-680	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-700	Amended	18:14 VA.R. 1903	4/24/02
22 VAC 40-880-720	Added	18:14 VA.R. 1903	4/24/02
Title 24. Transportation and Motor Vehicles			
24 VAC 15-100	Repealed	18:22 VA.R. 2933	6/26/02
24 VAC 15-110	Repealed	18:22 VA.R. 2933	6/26/02
24 VAC 15-120	Repealed	18:22 VA.R. 2933	6/26/02
24 VAC 15-130	Repealed	18:22 VA.R. 2933	6/26/02
24 VAC 15-140	Repealed	18:22 VA.R. 2933	6/26/02
24 VAC 15-150	Repealed	18:22 VA.R. 2933	6/26/02
24 VAC 15-160	Repealed	18:22 VA.R. 2933	6/26/02
24 VAC 15-170	Repealed	18:22 VA.R. 2933	6/26/02
24 VAC 15-180	Repealed	18:22 VA.R. 2933	6/26/02
24 VAC 15-190	Repealed	18:22 VA.R. 2933	6/26/02
24 VAC 15-200	Repealed	18:22 VA.R. 2933	6/26/02
24 VAC 15-210	Repealed	18:22 VA.R. 2933	6/26/02

NOTICES OF INTENDED REGULATORY ACTION

Symbol Key

† Indicates entries since last publication of the *Virginia Register*

TITLE 1. ADMINISTRATION

DEPARTMENT OF HUMAN RESOURCE MANAGEMENT

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Human Resource Management intends to consider amending regulations entitled: **1 VAC 55-20. Commonwealth of Virginia Health Benefits Program.** Section 2.2-2818 B (4) of the Code of Virginia mandates the health benefits program for state employees contract with one or more impartial health entities to review adverse medical claim decisions. The purpose of this proposed action is to set standards to assure that the impartial health entity conducting the reviews has adequate credentials and expertise.

The agency does not intend to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: §§ 2.2-1204 and 2.2-2818 of the Code of Virginia.

Public comments may be submitted until 5 p.m. on August 14, 2002.

Contact: Charles Reed, Associate Director, Department of Human Resource Management, 101 N. 14th St., Richmond, VA 23219, telephone (804) 786-3124, FAX (804) 371-0231 or e-mail creed@dhrm.state.va.us.

VA.R. Doc. No. R02-219; Filed June 21, 2002, 11:35 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Human Resource Management intends to consider amending regulations entitled: **1 VAC 55-20. Commonwealth of Virginia Health Benefits Program.** The purpose of the proposed action is to comply with the Code of Virginia by (i) incorporating an independent medical review program, (ii) changing the agency name from the Department of Personnel and Training to the Department of Human Resource Management, (iii) extending active coverage for surviving spouses of employees, and (iv) eliminating references to a Health Benefits Advisory Council and a Local Advisory Council. The proposed action will comply with the Health Insurance Portability and Accountability ACT (HIPAA) by amending the way coverage effective dates are set and eliminating any pre-existing condition or evidence of insurability provisions, and will also require the plan participants to make plan election changes on a prospective basis as required by the IRS. Electronic enrollment procedures will be added and the plans administrative procedures will be clarified.

The agency does not intend to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: §§ 2.2-1204 and 2.2-2818 of the Code of Virginia.

Public comments may be submitted until 5 p.m. on August 14, 2002.

Contact: Charles Reed, Associate Director, Department of Human Resource Management, 101 N. 14th St., Richmond, VA 23219, telephone (804) 786-3124, FAX (804) 371-0231 or e-mail creed@dhrm.state.va.us.

VA.R. Doc. No. R02-220; Filed June 21, 2002, 11:35 a.m.

TITLE 8. EDUCATION

BOARD OF EDUCATION

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Education intends to consider amending regulations entitled: **8 VAC 20-350. Regulations Governing the Operation of Proprietary Schools and the Issuing of Agent Permits.** The purpose of the proposed action is to amend the current regulation to remove the language dealing with proprietary schools for the disabled. New regulations specific to proprietary schools for students with disabilities will be promulgated as 8 VAC 20-670. The current action also proposes to (i) revise the regulations for proprietary schools to make them current and responsive to the needs of the schools; (ii) bring them into compliance with the Code of Virginia; and (iii) remove excess regulatory language not required in the Code of Virginia.

The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 22.1-321 of the Code of Virginia.

Public comments may be submitted until September 2, 2002.

Contact: Robert Sine, Specialist, Proprietary School Programs, Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 225-2848, FAX (804) 225-2524 or e-mail rsine@mail.vak12ed.edu.

VA.R. Doc. No. R02-251; Filed July 8, 2002, 10:58 a.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Education intends to consider promulgating regulations entitled: **8 VAC 20-670. Regulations Governing the Operation of Private Day**

Notices of Intended Regulatory Action

Schools for Students with Disabilities. The purpose of the proposed action is to give clear, orderly requirements for the establishment and conduct of such schools. There have been several changes in the Code of Virginia and in applicable standards that need to be updated in the regulations. There are inconsistencies that need to be addressed including academic standards, behavior management and the elimination of fees for such schools.

The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 22.1-321 of the Code of Virginia.

Public comments may be submitted until September 2, 2002.

Contact: Carolyn Hodgins, Specialist, Private Day School Programs, Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 225-4551, FAX (804) 225-2524 or e-mail chodgins@mail.vak12ed.edu.

VA.R. Doc. No. R02-252; Filed July 8, 2002, 10:58 a.m.

TITLE 9. ENVIRONMENT

VIRGINIA WASTE MANAGEMENT BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Virginia Waste Management Board intends to consider amending regulations entitled: **9 VAC 20-60. Virginia Hazardous Waste Regulations.** The purpose of the proposed action is to increase the permit application fees for transporters, new TSD facilities, permit modifications, minor permit modifications and emergency permits. (See 18:21 VA.R. 2713 July 1, 2002, for more detailed information.)

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: §§ 10.1-1402 and 10.1-1426 et seq. of the Code of Virginia.

Public comments may be submitted until 5 p.m., August 2, 2002.

Contact: Robert G. Wickline, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4213 or e-mail rgwickline@deq.state.va.us.

VA.R. Doc. No. R02-206; Filed June 10, 2002, 10:38 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Virginia Waste Management Board intends to consider amending regulations entitled: **9 VAC 20-90. Solid Waste Management Facility Permit Application Fees.** The purpose of the proposed action is to increase fees for solid waste management facilities. (See 18:21 VA.R. 2714 July 1, 2002, for more detailed information.)

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: § 10.1-1402 of the Code of Virginia.

Public comments may be submitted until 5 p.m., August 2, 2002.

Contact: Michael Dieter, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4146 or e-mail mjdieter@deq.state.va.us.

VA.R. Doc. No. R02-207; Filed June 10, 2002, 10:38 a.m.

STATE WATER CONTROL BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Water Control Board intends to consider amending regulations entitled: **9 VAC 25-20. Fees for Permits and Certificates.** The purpose of the proposed action is to increase the fees charged for processing applications for permits and certificates issued by the State Water Control Board.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: § 62.1-44.15:6 of the Code of Virginia.

Public comments may be submitted until 5 p.m., August 2, 2002.

Contact: Jon G. Van Soestbergen, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4117 or e-mail jvansoest@deq.state.va.us.

VA.R. Doc. No. R02-208; Filed June 10, 2002, 10:38 a.m.

TITLE 12. HEALTH

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled: **12 VAC 30-70. Methods and Standards for Establishing Payment Rates; Inpatient Hospital Services, and 12 VAC 30-80. Methods and Standards for Establishing Payment Rates; Other Types of Care.** The purpose of this regulatory action is to retain the Medicare methodology for reimbursing for outpatient hospital services in effect prior to August 1, 2000. This methodology provided for a 10% reduction in capital costs and a 5.8% reduction in operating costs. This action will also provide appropriate reimbursement for direct graduate medical education costs to those hospitals that operate such programs.

Notices of Intended Regulatory Action

The agency does not intend to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: §§ 32.1-324 and 32.1-325 of the Code of Virginia.

Public comments may be submitted until August 28, 2002, to Peterson Epps, Manager, Division of Reimbursement and Cost Settlement, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23239, telephone (804) 786-7959, FAX (804) 786-1680 or e-mail vsimmons@dmas.state.va.us.

VA.R. Doc. No. R02-229; Filed June 26, 2002, 2:46 p.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled: **12 VAC 30-80. Methods and Standards for Establishing Payment Rates; Other Types of Care.** The purpose of this action is to revise the estimated acquisition cost used by the agency (the Average Wholesale Price) to discount it by 10.25% and to redefine the Virginia Maximum Allowable Cost. Both of these changes respond to legislative mandates contained in the appropriation act.

The agency does not intend to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: §§ 32.1-324 and 32.1-325 of the Code of Virginia; Chapter 899 of the 2002 Acts of Assembly.

Public comments may be submitted until August 28, 2002, to Marianne Rollings, R.Ph., Division of Program Operators, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23239, telephone (804) 786-7959, FAX (804) 786-1680 or e-mail vsimmons@dmas.state.va.us.

VA.R. Doc. No. R02-230; Filed June 26, 2002, 2:48 p.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Medical Assistance Services intends to consider amending regulations entitled: **12 VAC 30-90. Methods and Standards for Establishing Payment Rates; Long-Term Care.** The purpose of this action is to revise the formula used to reimburse nursing facilities for indirect costs.

The agency does not intend to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Public comments may be submitted until August 28, 2002.

Contact: William Reid, Financial and Auditing Services Practitioner III, 600 E. Broad St., Suite 500, Richmond, VA

23219, telephone (804) 786-5379, FAX (804) 786-0729 or e-mail breid@dmas.state.va.us.

VA.R. Doc. No. R02-236; Filed July 1, 2002, 4:21 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Medical Assistance Services intends to consider promulgating regulations entitled: **12 VAC 30-135. Demonstration Waivers.** The purpose of this regulatory action is to provide family planning (only) services for 24 months post-delivery for women who were Medicaid eligible for their prenatal care and deliveries. Currently, DMAS is permitted by federal law to only extend Medicaid eligibility (for all covered services) for only 60 days postpartum for these women.

The agency does not intend to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: §§ 32.1-324 and 32.1-325 of the Code of Virginia.

Public comments may be submitted until August 14, 2002.

Contact: Deborah Sprang, Analyst, Policy Division, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 225-2364, FAX (804) 786-1680 or e-mail dsprang@dmas.state.va.us.

VA.R. Doc. No. R02-216; Filed June 18, 2002, 2:22 p.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

DEPARTMENT OF HEALTH PROFESSIONS

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Health Professions intends to consider adopting regulations entitled: **18 VAC 76-20. Regulations Governing the Prescription Monitoring Program.** The purpose of the proposed action is to promulgate regulations for implementation of the prescription monitoring program as mandated in Chapter 25.2 of Title 54.1 of the Code of Virginia. The proposed regulatory action will establish rules for granting waivers of the reporting requirements and additional exemptions for dispensing of covered substances, for reporting of additional nonclinical information, and for setting the format and schedule for reporting. Rules are also necessary for the director's disclosure of reported information to ensure that confidentiality is maintained and that any disclosure is in accordance with the restrictions set forth in law.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: Chapter 25.2 of Title 54.1 of the Code of Virginia.

Notices of Intended Regulatory Action

Public comments may be submitted until August 14, 2002.

Contact: Robert Nebiker, Director, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9919, FAX (804) 662-9114 or e-mail robert.nebiker@dhp.state.va.us.

VA.R. Doc. No. R02-226; Filed June 26, 2002, 9:26 a.m.

BOARD OF MEDICINE

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Medicine intends to consider amending regulations entitled: **18 VAC 85-20. Regulations Governing the Practice of Medicine, Osteopathy, Podiatry and Chiropractic.** The purpose of the proposed action is to amend the regulations to comply with a statutory mandate in § 54.1-2910.1 of the Code of Virginia as amended by Chapter 38 of the 2002 Session of the General Assembly. The statute requires changes to the practitioner profile system for doctors of medicine, osteopathy and podiatry to include the addition of telephone numbers, e-mail and fax for dissemination of emergency information and information on felony convictions. The amended regulations would replace emergency regulations required by the second enactment clause of the bill.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: Chapter 29 of Title 54.1 of the Code of Virginia.

Public comments may be submitted until 5 p.m., August 14, 2002.

Contact: Dr. William Harp, Executive Director, Board of Medicine, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9908, FAX (804) 662-9943 or e-mail william.harp@dhp.state.va.us.

VA.R. Doc. No. R02-215; Filed June 19, 2002, 2:20 p.m.

TITLE 22. SOCIAL SERVICES

STATE BOARD OF SOCIAL SERVICES

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to consider amending regulations entitled: **22 VAC 40-250. Agency Placement Adoptions - AREVA.** The purpose of the proposed action is to make the criteria of children to be registered with AREVA consistent with that for adoption assistance eligibility. Amendments are also necessary to delete obsolete language, and include reference to the automated, web-based adoption exchange.

The agency does not intend to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: §§ 63.1-25 and 63.1-56 of the Code of Virginia.

Public comments may be submitted until August 14, 2002.

Contact: Karin S. Clark, Adoption Program Consultant, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1251, FAX (804) 692-1284 or e-mail kac900@email1.dss.state.va.us.

VA.R. Doc. No. R02-223; Filed June 25, 2002, 12:04 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to consider amending regulations entitled: **22 VAC 40-260. Agency Placement Adoptions - Subsidy.** The purpose of the proposed action is to revise the special needs eligibility criteria for adoption assistance. Amendments are also necessary to delete obsolete language and improve overall clarity.

The agency does not intend to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: §§ 63.1-25 and 63.1-238.5 of the Code of Virginia.

Public comments may be submitted until August 14, 2002.

Contact: Karin S. Clark, Adoption Program Consultant, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1251, FAX (804) 692-1284 or e-mail kac900@email1.dss.state.va.us.

VA.R. Doc. No. R02-224; Filed June 25, 2002, 12:04 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to consider repealing regulations entitled: **22 VAC 40-270. Agency Placement Adoptions - Appeals.** The purpose of the proposed action is repeal this regulation which addresses appeal rights of adoptive parents and applicants. Appeal provisions will be incorporated into another regulation, 22 VAC 40-260, Agency Placement Adoptions - Subsidy, which is also currently under review and recommended for amendments.

The agency does not intend to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: §§ 63.1-25 and 63.1-238.5 of the Code of Virginia.

Public comments may be submitted until August 14, 2002.

Contact: Karin S. Clark, Adoption Program Consultant, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1251, FAX (804) 692-1284 or e-mail kac900@email1.dss.state.va.us.

VA.R. Doc. No. R02-225; Filed June 25, 2002, 12:04 p.m.

PROPOSED REGULATIONS

For information concerning Proposed Regulations, see Information Page.

Symbol Key

Roman type indicates existing text of regulations. *Italic type* indicates proposed new text.
Language which has been stricken indicates proposed text for deletion.

TITLE 8. EDUCATION

BOARD OF EDUCATION

Title of Regulation: 8 VAC 20-650. Regulation Governing the Determination of Critical Teacher Shortage Areas (adding 8 VAC 20-650-10 and 8 VAC 20-650-20).

Statutory Authority: § 22.1-212.2:1 of the Code of Virginia.

Public Hearing Date: September 26, 2002 - 1 p.m.

Public comments may be submitted until October 2, 2002.
(See Calendar of Events section
for additional information)

Agency Contact: Dr. Thomas Elliott, Assistant Superintendent, Teacher Licensure, Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 371-2522, FAX (804) 225-2524, or e-mail telliott@mail.vak12ed.edu.

Basis: The Board of Education shall establish, in regulation, criteria for determining, biennially, critical teacher shortage areas for awarding scholarships pursuant to § 22.1-212.2:1 of the Code of Virginia. The criteria shall include such factors as the needs in teacher endorsement areas among the several school divisions of the Commonwealth, teacher shortages at the elementary and secondary grade levels, and teacher shortages in rural and urban regions of the Commonwealth. The Program (Virginia Teaching Scholarship Loan Program) shall be administered by the Board of Education, which shall promulgate such regulations as may be necessary for the implementation of the Program.

Purpose: The proposed regulations provide a procedure for determining critical teacher shortage areas. General Assembly funding of the Virginia Teaching Scholarship Loan Program (VTSLP) provides scholarships to prospective teachers enrolled in teacher preparation programs. The intent of the VTSLP is to support teachers who are preparing to teach in critical teacher shortage areas. A process must be in place to identify those critical teacher shortage areas for the awarding of the scholarships. The goal of the regulations is to collect the supply and demand information from school divisions and provide a reasonable and scientific procedure to identify critical teacher shortage areas in Virginia.

Substance: The title of the regulations has been shortened from the emergency regulation titled "Regulations Governing the Determination of Critical Teacher Shortage Areas for Awarding the Virginia Teaching Scholarship Loan Program" to "Regulations Governing the Determination of Critical Teacher Shortage Areas." The proposed regulations stipulate that a survey of instructional personnel and administrative personnel will be conducted to obtain the data needed to establish critical teacher shortage areas. To provide current data, the Board of Education changed the survey from a biennial to an

annual survey. This change appears in the section titled, Survey of Local School Divisions.

Issues: There are advantages to the Regulations Governing the Determination of Critical Teacher Shortage Areas. By conducting an annual survey of instructional personnel and administrative personnel, the Department of Education will have accurate and current information regarding staffing needs in Virginia's public school divisions. This information will be used to determine shortage areas for awarding the VTSLP to provide a financial incentive for students who are preparing to teach in the critical teacher shortage areas. The information will also be communicated to teacher and administrator preparation programs so that programs can be adjusted to help address areas of greatest need.

There are no disadvantages to the public or the Commonwealth in the proposed regulations.

Department of Planning and Budget's Economic Impact

Analysis: The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007 G of the Administrative Process Act and Executive Order Number 25 (98). Section 2.2-4007 G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the proposed regulation. Pursuant to § 22.1-290.01 of the Code of Virginia, the Board of Education (board) proposes to establish criteria governing the determination of critical teacher shortage areas used for awarding scholarships.

Estimated economic impact. The Department of Education (education) administers the Virginia Teaching Scholarship Loan Program. The program, as delineated in § 22.1-290.01 of the Code of Virginia, is intended to "increase the number of teachers in the critical teacher shortage disciplines, including special education, as established by the Board," among other goals. The Code also specifies that:

before any teacher scholarship is awarded in accordance with the provisions of this section, the scholarship recipient shall sign a promissory note under which he agrees ... upon graduation, to begin teaching in the public schools of the Commonwealth in a critical teaching shortage discipline or, regardless of teaching discipline, in a school with a high concentration of students eligible for free or reduced lunch or in a rural or urban region of the commonwealth with a teacher shortage."

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According to the department, critical shortage areas for Virginia have been determined from information provided by a teacher supply and demand study that was conducted by the department in 1993. A 1999/2000-department survey supported the results of the previous survey.¹

Specific criteria delineating what constitutes a critical shortage area have thus far not existed in regulations. Pursuant to House Bill 1404 of the 2000 General Assembly, § 22.1-290.01 of the Code requires the board to establish in regulation criteria for determining critical shortage areas for awarding scholarships. These proposed regulations specify how schools or subject areas may qualify as critical shortage areas. Putting the specific minimum criteria for shortage area determination in regulations will be useful information for potential candidates to consider. Establishing these criteria in regulations will not likely affect how the department chooses the scholarship winners in practice.

Businesses and entities affected. The proposed changes to the regulation will affect the 132 school divisions, as well as

Localities particularly affected. The proposed changes to the regulation affect localities throughout the Commonwealth.

Projected impact on employment. The proposed regulations are unlikely to significantly affect employment.

Effects on the use and value of private property. The proposed changes to the regulation will not likely significantly affect the use and value of private property.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The agency concurs with the economic impact analysis issued by the Department of Planning and Budget.

Summary:

The proposed regulation establishes criteria governing the determination of critical teacher shortage areas used for awarding scholarships.

CHAPTER 650.

REGULATIONS GOVERNING THE DETERMINATION OF CRITICAL TEACHER SHORTAGE AREAS.

8 VAC 20-650-10. Survey of local school divisions.

Beginning in school year 2001-2002, to obtain the data necessary for establishing critical teacher shortage areas, an annual survey of instructional personnel and administrative personnel licensed by the Board of Education shall be conducted as follows:

1. The Department of Education shall be responsible for the administration of the annual survey and shall:

a. Distribute to each local school division an annual survey of instructional and administrative personnel for the purpose of determining critical teacher shortages. The department may distribute the survey through electronic means; and

b. Post the results of the survey in a manner that will permit access by local school divisions, approved teacher preparation programs, other state agencies, and the public through an electronic process.

2. Each local school division shall be required to submit a completed survey within the timeframe established by the department. If the survey is distributed through electronic means, then the survey shall be completed and submitted to the department through electronic means as identified by the department.

3. To obtain information about the differences in the supply and demand among Virginia school divisions, the survey will require, but will not be limited to, the following data:

a. Number of teaching positions by subject area;

b. Number of teaching positions by endorsement (teaching) area; number of teaching positions not filled by endorsement area; and number of teaching positions filled without the appropriate teaching endorsement;

c. Number of teachers employed without a regular five-year renewable license for their teaching assignment; and

d. Number of teaching position vacancies for which a school division receives three or fewer qualified candidates (licensed or eligible for a license).

8 VAC 20-650-20. Establishing critical shortage areas.

A. Utilize the data collected through the annual survey to establish critical teacher shortage areas as follows:

1. Shortages by subject matter will be designated from the top 10 academic disciplines identified as having shortages through the superintendent's annual survey of school divisions.

2. School divisions may identify shortages, in addition to the top 10 academic disciplines identified statewide, designated in a subject area. Any teaching position vacancy for which a school division receives three or fewer qualified candidates (licensed or eligible for a license) may be designated as a critical shortage area.

3. Any Virginia school division, including rural or urban school divisions, where 10% of the teachers are not fully licensed for their teaching assignment may be designated as a geographic critical shortage area.

B. For the purpose of administering the Virginia Teaching Scholarship Loan Program, an individual may meet the teaching obligation, regardless of teaching discipline, by agreeing to teach in a school with a high concentration (50% or more) of students eligible for free or reduced lunch.

VA.R. Doc. No. R01-245; Filed July 8, 2002, 10:56 a.m.

¹ Source: Virginia Department of Education

TITLE 12. HEALTH

STATE BOARD OF HEALTH

Title of Regulation: 12 VAC 5-610. Sewage Handling and Disposal Regulations (amending 12 VAC 5-610-120 and 12 VAC 5-610-490; adding 12 VAC 5-610-449 and 12 VAC 5-610-449.1).

Statutory Authority: § 32.1-12 and 32.1-164 of the Code of Virginia.

Public Hearing Date: August 14, 2002 - 10 a.m. (Richmond)
August 21, 2002 - 7 p.m. (Franklin)

Public comments may be submitted until October 1, 2002.
(See Calendar of Events section
for additional information)

Agency Contact: Donald J. Alexander, Director, Division of Onsite Sewage and Water Services, Department of Health, 1500 E. Main Street, Room 115, Richmond, VA 23219, telephone (804) 225-4030, FAX (804) 225-4003 or e-mail dalexander@vdh.state.va.us.

Basis: Section 32.1-164 of the Code of Virginia states that the Board of Health has responsibility for the safe and sanitary collection, conveyance, treatment, and disposal of sewage as they affect public health and welfare. In addition, the board is required, in discharging its responsibility for safe and sanitary sewage treatment and disposal, to exercise due diligence to protect the quality of both surface and ground water. The regulation of mass sewage disposal systems and the quantity of rock allowed in soils are not specifically mandated by the Code of Virginia. There are no federal minimum requirements regarding the topics of the regulation.

Purpose:

Mass Sewage Disposal Systems: The 1991 Report of the Task Force on Septic Regulations recommended that the Board of Health consider requiring treatment for nitrogen where clusters of systems or large systems create high loading rates in a limited geographic area. The Task Force also recommended establishing clear requirements for maintenance and oversight for systems serving multiple dwellings. The MSDS regulations were based on the Task Force recommendations and existing department policy intended to establish standards for mass drainfields.

In 1996 the board published proposed regulations for public comment that included MSDS requirements. In 1996 there were 12 public hearings followed by a period of many months during which the department worked with various constituent groups to address concerns raised during the public comment period. One of the groups with which the department worked (on MSDS issues) included developers and engineers from the Smith Mountain Lake area.

On August 16, 1999, the board published final amendments that were to have been effective October 1, 1999. On September 16, 1999, the regulatory process was suspended because of requests for an additional public comment period (§ 9-6.14:7.1 K of the Code of Virginia). Two additional 30-day comment periods followed between October 11, 1999, and

January 19, 2000. On April 24, 2000, the Board of Health published final amendments to the Sewage Handling and Disposal Regulations to be effective July 1, 2000. Those amendments contained new regulations for Mass Sewage Disposal Systems.

On June 8, 2000, department representatives met with Senator Newman, Speaker of the House Vance Wilkins, Delegate Putney as well as several others representing development interests and the engineering and consulting communities, especially those located near Smith Mountain Lake, to hear their concerns regarding the MSDS regulations. That group asked that the department delay implementation of the MSDS regulations. The group said that there had not been enough public input in the regulatory process. They asked for evidence of problems with nitrates in ground water (the MSDS regulation established limits and rules for dealing with nitrogen and nitrates from wastewater), they complained about the economic impact of the regulations (dilution area downslope, 5 mg/l vs. 10 mg/l nitrate standard, 30% volatilization vs. 50%, secondary treatment), and complained that the regulation failed to address maintenance of MSDS.

The types of development primarily impacted by the MSDS regulations include multi-family condominium-style housing and commercial enterprises (i.e., shopping centers, restaurants) utilizing onsite wastewater systems. Single-family housing also would have been subject to the MSDS requirements, but only at the time of subdivision planning. The legislators indicated that there would be legislation to repeal the regulations that they found unacceptable.

Shortly after the June meeting, department staff advised Commissioner Peterson that she should act for the Board of Health and withdraw the MSDS regulation prior to the effective date. After consulting with the OSHHR, Commissioner Peterson withdrew the regulation with the understanding that the department would immediately publish a Notice of Intended Regulatory Action to promulgate a new MSDS regulation with additional input from the affected parties. The NOIRA was published July 17, 2000.

Soils Containing Greater than 50% Rock: The 1991 Task Force recommended that Virginia examine the definition of rock and the adequacy of the current regulations regarding separation distances to rock. The final amendments published August 16, 1999, contained certain restrictions on the use of soils containing greater than 50% rock by volume. Those requirements would have affected land owners seeking permits in areas of the state characterized by hilly or mountainous terrain with relatively shallow soils underlain by bedrock. Two primary examples of these regions would be the Shenandoah Valley and the mountainous regions of southwestern Virginia, particularly the counties of Wise, Dickinson, Buchanan, Scott, Lee, and Tazewell.

As noted above, the final amendments did not take effect on October 1, 1999, because the regulatory process was suspended for additional public comment periods. On December 16, 1999, and again on January 13, 2000, the department met with various constituents, public officials and local government representatives in the Shenandoah Valley area to hear their concerns about the 50% rock regulation. In those meetings, there was a representative of Delegate

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Lauderbach, representatives from Clarke and Shenandoah Counties, the Lord Fairfax Planning District Commission, soil and engineering consultants, and citizen landowners.

The concerns expressed by the group dealt primarily with economic impacts. The new requirements would increase the cost of development for a substantial portion of the land (unofficial estimate of 43% in Shenandoah County) and eliminate development on a smaller fraction of land (5.0% - 8.0%). Another concern, expressed by local government officials, was that the new rule encouraged the use of alternative sewage systems but failed to impose operation and maintenance requirements on those systems.

During the 2000 session of the General Assembly, House Bill 1333 was introduced that would have excluded Planning Districts One and Two from the new regulations. The patron, Delegate Phillips, agreed to withdraw the bill when the department offered to withdraw the 50%-rock regulation and meet with representatives from southwestern Virginia to explore alternatives to the regulation as it was written. The final regulation published April 24, 2000, did not contain the restrictions on soils containing greater than 50% rock. The NOIRA published July 17, 2000, included provisions to reintroduce requirements for soils containing greater than 50% rock.

The primary purpose of these amendments is to protect public health by protecting the quality of ground and surface waters (statutory mandate to exercise due diligence, § 32.1-164 of the Code of Virginia). The department's onsite regulations are increasingly viewed as part of the overall water quality protection strategy of the Commonwealth. The department has been working closely with the Department of Environmental Quality, the Department of Conservation and Recreation, and others in their water quality initiatives (Water Quality Improvement Act). These agencies have continued to express concerns about the impact of failing drainfields and inadequate onsite regulations on water quality.

The goals of both regulations are to transform existing policy into regulation so that it is enforceable and clear to all involved. For many years, mass drainfields and the amount of rock in and around a drainfield have been regulated informally with questionable consistency. These proposals are based on science and formalize what we've learned the last 15 years. They have been written with the help of an ad hoc committee made up of regulators, engineers, soil scientists, and local government advisors from the private and public sector.

Substance: Substantive provisions to the mass drainfield proposal include special requirements, absorption area design table, site assessment, verification, monitoring, and a sampling schedule. The substance of the percentage of allowable rock around a drainfield includes definitions, soil characteristics that determine suitability and a table summarizing separation distances between certain systems and the limiting factor of soils containing a high volume of rock fragments.

Issues: The primary advantage to the proposals is the enhanced protection of groundwater resources from contamination by onsite sewage disposal systems. The monitoring and maintenance requirements for mass

drainfields assure that systems are running efficiently and satisfactorily. This saves owners of businesses from expensive repairs due to lack of inspections on large and somewhat complex systems. These repair costs would usually be passed along, in some manner, to individual consumers and citizens. Soils are used to naturally clean up sewage effluent. Assuring that there are adequate soils and not too many rock fragments prevents untreated sewage from entering shallow groundwater horizons. This benefits citizens by protecting natural groundwater resources and by preventing contamination of aquifers used for drinking water supplies. The department perceives no disadvantages to these proposals.

Department of Planning and Budget's Economic Impact Analysis: The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007 G of the Administrative Process Act and Executive Order Number 25 (98). Section 2.2-4007 G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the proposed regulation. The proposed regulations will establish new requirements for mass sewage disposal systems. The substantive changes include making proposed subdivisions with massed drainfields subject to mass sewage system requirements, modifying the footprint area calculation method, adopting new vertical distance requirements for mounding below the absorption area, establishing geotechnical evaluation requirements for flows exceeding 5,000 gallons per day (gpd), and establishing a requirement for filing a dedication document.

In addition to mass sewage system requirements, new criteria for the percentage of rock allowed in the soils below a soil absorption system will be established. All of the onsite systems regardless of size will be subject to this last requirement.

Estimated economic impact. Collection, conveyance, treatment, and disposal of sewage are subject to regulations because they affect public health. The proposed regulations will expand the definition of mass sewage systems to include massed individual systems and establish new rules for mass systems and for the allowable rock content of all onsite sewage systems. Currently, there are no regulatory requirements for mass sewage disposal systems and for the quantity of rock allowed in soils. Instead, the Department of Health (the department) has an informal policy to enforce permitting and design procedures in these areas. The policy has been administered under the general provisions of the Sewage Handling and Disposal Regulations since 1984.

Mass Sewage Disposal Systems: The proposed changes will add new regulatory requirements for mass sewage disposal systems. These systems have average flows over 750 gpd.

Mass systems serve a cluster of sources or large individual sources. The types of onsite wastewater mass systems include multi-family housings such as condominiums, shopping centers, commercial enterprises such as restaurants, and combined systems such as subdivisions. Single-family dwelling lots will be subject to the proposed mass sewage disposal system requirements if developed as a part of a subdivision. These mass systems have a greater potential for failure than small commercial onsite systems and pose a higher risk of surface and ground water contamination than do smaller ones.¹

a. Massed Single Family Sewage Systems: The proposed regulations will add new evaluation requirements for drainfield layouts of subdivisions with single-family residences to determine if they have the potential for groundwater mounding or nitrate contamination. These residences are not subject to evaluation requirements under the current department policy. The department indicates, however, that some developers are massing as many as a dozen or more single-family drainfields together. The department believes that massing individual systems may cause premature failure from groundwater mounding and the contamination of wells around and downgradient from massed drainfields.

With the proposed changes, a massed system applicant will be required to analyze the potential for water mounding below the absorption area, collect and analyze background samples from the groundwater, and submit the evaluation to the department along with the application for a construction permit. Water mounding evaluation must demonstrate that there is appropriate distance between the sewage trench bottom and the top of water mounding over the water table to treat the discharged effluent. The required distance decreases as the treatment level increases. This new requirement creates the possibility that some massed system owners may be required to treat the effluent to be able to continue with the development project. In some other cases, the project may no longer be feasible even with the highest treatment level. Thus, if the water mounding is a limiting factor, of the five massed system applications expected annually, some owners will likely incur significant treatment costs and some others may choose to abandon the development project.

Additionally, massed individual systems will be subject to the groundwater standards established under 9 VAC 25-260-190, which require less than 5 mg/l nitrate-nitrogen concentration in groundwater. The massed system owners will be required to comply with the nitrate standard. Since this is a new requirement for massed individual systems, there is likely to be additional costs on the owner. The magnitude of additional costs will depend on the compliance method chosen. There will be several options available to the owners to comply with the nitrate standard. First, the owner may choose to decrease the amount of effluent discharge to meet the nitrate standard. For a given area, this could be achieved by reducing the number of dwellings or the size of such dwellings. Second, the applicant may treat the sewage to comply with the nitrate standard. This may require redesigning the system and/or installing new treatment equipment. Third, the applicant may

be able to proceed with the current project by increasing the land area available for dilution. This may require purchase of additional land area. Finally, the applicant may want to reevaluate the validity of the other assumptions used in the site evaluation. For example, the actual nitrogen concentration in the rain may be lower in some areas than the assumed level. If the owner is not able to comply with the nitrate standard through any of these means, then the development project will require substantial modification or may even be abandoned.

The department expects about five massed system applications a year that may be subject to mass drainfield requirements. In most of these cases, compliance with water mounding and nitrate standards are likely to introduce significant compliance costs on massed individual sewage system permit applicants.² Some development projects may have to be modified at significant costs and some may no longer be feasible. However, there is no data available to determine potential additional costs on massed individual system owners.

On the other hand, the proposed regulations are likely to improve the quality of groundwater in the proximity of these massed individual systems.

b. Minimum foot print area: The proposed regulations will establish a new method to calculate the required minimum footprint area. The footprint area is an area where sewage is licensed to be disposed. It includes the absorption area and a reserve area that can be used as the absorption area if needed. The size of the required absorption area is determined by the degree of treatment provided, site and soil conditions, and the method of dispersal. Currently, the department uses the percolation rate to determine the required footprint area. The percolation rate is a measure of soil's hydraulic conductivity in terms of the rate of absorption. It is stated in terms of the movement of effluent toward the center of gravity in terms of inches per day and calculated based on observations made at static time intervals. For soils that are conductive, no reserve area is currently required. For soils that are not conductive the agency requires designation of 50% reserve area in the sewage system footprint. The proposed regulations will modify the footprint area calculation method and provide a table for the required minimum footprint area. The proposed methodology differs from the current practice in three ways.

First, the hydraulic conductivity will be stated in terms of Ksat rate, a metric measure of absorption rate stated in terms of centimeters per day, instead of the percolation rate, which is a standard American measure of absorption rate stated in terms of inches per day. The sewage system permit applicants will be required to use the proposed new measure of rate of absorption. The agency will provide a conversion chart for approximate Ksat rates corresponding to the percolation rates during a six-month to one-year transition period when the regulated industry becomes familiar with the proposed measure. However, the industry will eventually start calculating and using the Ksat rates.

¹ Source: The Department of Health.

² Source: Representatives of Virginia Society of Professional Engineers and Virginia branch of National Onsite Wastewater Recycling Association.

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The agency indicates that the Ksat test is scientifically more appropriate, more reliable, accepted worldwide, easier, faster, and cheaper to conduct. Ksat rate is calculated based on observations made in continuous time as opposed to observations made in static time intervals. It can be performed within 3 to 4 hours as opposed to two days for the percolation test. The cost of equipment to estimate Ksat rate is in \$500 to \$1,500 range whereas the percolation test equipment is relatively cheap, requiring a bucket or drum for water, an auger, a tape measure and a few nails.³ Mass sewage system applicants or their consultants will have to purchase new equipment due to proposed use of Ksat rate. This will introduce one time costs on the industry. However, ongoing cost savings due to faster testing may exceed the additional one-time equipment costs at a reasonable discount rate. Additionally, Ksat test may provide additional environmental and health benefits because it is a scientifically more appropriate conductivity measure.

Second, the proposed footprint area, which includes the reserve area, will vary for each of the eight categories of Ksat rates. Currently, there are only two categories. For above average absorption rates, no reserve area is required while for below average absorption rates, 50% reserve area is required.⁴ The proposed regulations will establish 10 different categories where the footprint area increases linearly as the conductivity decreases. The establishment of ten categories is likely to better meet the footprint requirements of sewage systems varying in size than is the current two categories. The required reserve area will be 100% of the absorption area for all ten categories. This means that applicants who are currently required no reserve area will be required to have a 100% reserve area. These changes will double the required footprint area for some of these applicants. The applicants who are currently required 50% reserve area will be required 100% reserve area. This will increase the required footprint area by 1/3 for some of the applicants. Thus, all property owners will be required a larger footprint area.

Any change in the footprint size will likely have a direct impact on the profitability of a real estate development project. The additional costs may come from reduced area for development or an increase in treatment costs. On the other hand, larger footprint area is likely to be insurance for failing systems. This may prevent exorbitant costs in cases when a system fails and there is no sufficient reserve area to discharge the effluent. The potential risks to ground and surface water contamination from such large systems may also be reduced if the owner purposefully avoids acknowledging a failing system due to high costs of compliance.

Third and more importantly, the proposed footprint area will take into account different sewage treatment levels. Required footprint area decreases as the treatment level for the sewage increases. The treatment level of the effluent is another dimension that will be taken into account when issuing permits. According to the agency, the proposed footprint sizes

will be higher for less treated effluent and lower for better-treated effluent. Thus, the proposed change is likely to provide cost savings to some applicants and introduce additional costs to some others. However, the establishment of six categories for varying treatment levels is likely to better meet the footprint requirements of sewage systems varying in pollution potential than the current practice. In addition, unlike the soil conductivity rate, the treatment level is under direct control of the property owner. This feature provides a valuable option to the permit applicants. The idea is that if the owner better manages or treats the effluent, then a smaller footprint area will be allowed. Applicants who wish to reduce the footprint area will likely choose to increase the treatment level. This optional feature is likely to be used if it is beneficial to do so. If the treatment costs do not justify the savings in footprint area, the owner will likely simply choose not to increase the treatment level. Also, if the treatment costs do not vary between different locations, then developers in valuable land areas would especially be eager to take advantage of the proposed rules.

Furthermore, for soils with very low hydraulic conductivity (Ksat is between 0.001 cm/day to 0.8 cm/day) the department does not propose any footprint requirement, but will evaluate each application on a case-by-case basis. Currently, no permits are issued for soils with these characteristics. About one or two applications per year are expected to apply for special consideration under this category. Slowly moving soil characteristics are especially prevalent in Loudoun County, Prince William County, and Fairfax County. The proposed changes may benefit some applicants if the department allows new sewage systems in these localities. Some landowners might be allowed to develop new areas for residential purposes.

c. Water Mounding: Another requirement will be for the water mounding below the absorption area. Currently the distance between the sewage trench bottom and the top of water mounding over the water table must be at least 18 inches for all types of discharges. The intent of the proposed distance is to ensure that there is enough soil to treat the effluent discharged before reaching the water table. The proposed regulations will adopt different distance requirements depending on the type of sewage discharged. The distance will be required to be 24 inches for primary effluent, which is untreated discharge directly coming from the septic tank, 18 inches for secondary effluent, which is treated somewhat (BOD and TSS less than 30 mg/L), 12 inches for advanced secondary effluent (BOD and TSS less than 30 mg/L), 6 inches for enhanced secondary treatment and disinfected effluents (chlorinated effluent). The proposed amendments recognize that different distances may be more appropriate for different levels of treatment for soil to perform its filter function.

These proposed standards have the potential to be more or less stringent than the current standard, depending on the type of effluent discharged. For the discharges of untreated effluent, the proposed standard will be more stringent as an additional 6-inch distance will be required in addition to current generic 18-inch distance. The proposed additional 6-inch may not be available for some primary effluent discharges. Owners of these systems may have to install some treatment equipment to convert the primary effluent to secondary

³ Source: The department.

⁴ Above average Ksat rates are greater than 10 cm/day while below average rates are less than or equal to 10 cm/day.

effluent to be able to obtain a permit. Thus, the proposed standard may reduce the areas that would be constructed as new dwellings or may require installation of new equipment to obtain a permit. According to the agency, dense areas (2-4 bedroom houses per acre) are most likely to be affected by the more stringent distance requirement, as it is relatively difficult to expand the drainfield area to obtain a permit. On the other hand, for the discharges of advanced secondary effluent and better treated other types of effluent, the proposed standard will be less stringent. Owners of these types of potential systems will be able to obtain a permit. Thus, the proposed standard may also increase the areas that would be constructed as new dwellings. However, no data exists to determine how many systems will fall under each category.

d. Sampling requirements: The proposed amendments will also establish sampling requirements for mass sewage disposal systems that discharge septic tank effluent. Currently, sampling is required for all mass drainfields with secondary or better treatment. The owners of systems that discharge septic tank effluent will be required to conduct tests for eight variables: effluent flow, BOD, total suspended solids, total residual chlorine, fecal coliform, pH, dissolved oxygen, nitrogen. The frequency of proposed number of sampling increases as the plant size increases. For example, BOD and total suspended solids will have to be sampled twice a year for mass flows less than 5,000 gpd whereas total residual chlorine will be required to be sampled three times a day for flows over 100,000 gpd. The department does not expect any septic tank effluent system greater than 40,000 gpd to come online. Thus, the main effect is expected to be on septic tanks systems less than 40,000 gpd.

The proposed sampling requirements are likely to introduce costs on the owners of these systems. Since an operator is already required under the current policy to visit the plant periodically, additional compliance costs would be mainly for the testing and are expected to be about \$600 for systems greater than 5,000 gpd and \$100 for systems less than 5,000 gpd.⁵ Additionally, there may be additional costs on owners, as they will be required to fix the system to the standards when tests indicate a violation of standards.

On the other hand, the proposed monitoring is likely to help identify problems with the system and prevent discharge of effluents that may contaminate surface and ground water. This is likely to afford additional protection for the aquatic life and human health as these waters may be the drinking water sources or may be used for recreational purposes.

e. Geotechnical Evaluation: Mass drainfield flows exceeding 5,000 gpd will be required to have additional evaluation. The required additional evaluations include boring logs and geophysical data collected from the absorption area or other appropriate locations to analyze the potential impact on ground and surface water. The cost to produce the technical report is about \$6,000.⁶ The agency expects construction of about 10 to 20 systems per year with flows greater than 5,000 gpd.

The proposed evaluation requirement is to make sure that the data used in nitrate and mounding analysis is accurate, and the soil conditions beyond the system area are capable of handling the amount of discharge. Since these are very large systems, potential risks to ground and surface water contamination may be reduced by more accurate data.

f. Dedication Document: The proposed regulations will also introduce a requirement to file a dedication document with clerk of the circuit court stating that the sewage disposal areas and nutrient dilution areas will be used only for sewage disposal system and may not be excavated and used for permanent structures. This requirement will increase costs on permit applicants by about \$200 per case.⁷ Additionally, a survey will be required in most cases. The department indicates that survey costs vary significantly. In some cases, a survey may cost up to \$500. This requirement will help ensure that approved land area for sewage system is maintained and is not used for other purposes. In addition, it may help new owners to identify the location of the designated footprint area. The department indicates that dedication documents on most mass drainfields are currently required, but does not know how many additional systems will be required to provide the same dedication document.

g. Summary: The potential effects of some of the proposed amendments are counterbalancing each other. The two of the proposed changes discussed are likely to have significant and opposing effects on the land area available for development and on the sewage system owners. First, making massed individual systems subject to nitrate and water mounding requirements is likely to reduce the land area available for this type of real estate development, or introduce additional treatment costs on the owners. Second, allowing smaller footprint area and a shorter distance between the sewage trench bottom and the top of water mounding for treated effluents is likely to increase the land area available for real estate development and consequently benefit the land owners. Thus, some development projects will be feasible under the proposed changes and some will no longer be feasible.

Allowable Rock Content in a Drainfield: The proposed regulations will introduce new requirements for depth of suitable soil for all systems including the mass systems if a high percentage of rock to soil content below the trench bottom is present. Soil provides treatment for septic tank effluent and high rock content between the trench bottom and the water table reduces the treatment capability of soil. Treatment capability of soil depends on its texture. For example, fine textures like clays clean the effluent in a shorter distance than courser sandy materials. On the other hand, once sewage encounters rock it is free to travel unfettered to the water table and the only treatment that occurs is pathogen die-off due to time passed.

Currently, the department has been making decisions on permit applications for high rock content soils on a case-by-case basis without any formal guidelines. The proposed regulations will establish regulatory rules for all applications.

⁵ Source: The department.

⁶ Ibid.

⁷ Ibid.

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Thus, some of the systems that may be allowed under the current policy will no longer be allowed. The department estimates that about 1,500 to 1,800 dwellings may be affected by the proposed high rock content requirements.

For systems dispersing septic tank effluent, the proposed regulations will require a minimum of 18 inches of suitable soil below the trench bottom which may contain up to 60% rock fragments by volume and the soil has a texture of loamy sand or finer. If the soil materials are sand, then a minimum three-foot horizon of sand with up to 60% rock fragments must be present below the trench bottom. For systems discharging secondary or better effluent, the required distances are lower because secondary or better effluents may be treated in a shorter soil horizon below the trench bottom.

Additionally, soil horizons below the trench bottom that have greater than 60% rock fragments by volume may be considered for approval if the thickness of the high-rock content horizons is a minimum of three feet and the soil materials have a texture of loamy sand or finer.

The proposed changes are new for all systems regardless of their sizes and are likely to increase compliance costs on homes and businesses that utilize onsite systems. Some of the development projects will likely no longer be feasible due to rock content and minimum distance requirements that go together. Some permit applicants may have to increase the size of the drainage area to obtain a permit or abandon the development project. This change is likely to reduce the land area considered permeable under the current regulations.

The proposed requirements will likely affect landowners seeking permits in areas of the state characterized by hilly or mountainous terrain with relatively shallow soils underlain by bedrock. In general, most of the rocky soils are found in the western portions of the state. Two examples of these regions are the Shenandoah Valley and the mountainous regions of southwestern Virginia, particularly the counties of Wise, Dickinson, Buchanan, Scott, Lee, and Tazewell. In addition, varying horizon depths of soil with rock fragments for treated and untreated effluent are likely to provide incentives to land owners to install treatment equipment.

On the other hand, the proposed rock content and minimum distance requirements are likely to provide additional protection for groundwater quality. Soil is used to naturally clean up sewage effluent. Assuring that there is adequate soil and not too many rock fragments, will likely prevent untreated sewage from entering shallow groundwater horizons. This may benefit the public by protecting natural groundwater resources and by preventing contamination of aquifers used for drinking water supplies.

In short, though some land may be able to continue with the development projects that are currently feasible by increasing the level of treatment, the proposed rock content and minimum distance requirements are likely to reduce the land area available for real estate development. Some development projects may no longer be feasible and be cancelled.

Businesses and entities affected. The proposed regulations are expected to affect about 1,500 to 1,800 individual home builders with onsite systems, fewer than 50 real estate

developers, 25 small businesses, and up to 5 schools annually.

Localities particularly affected. The proposed regulations apply throughout the Commonwealth. However, localities with very low hydraulic conductivity soil characteristics may be particularly affected. The department will start considering approval for this type of soils on a case-by-case basis. Slowly moving soil characteristics are especially prevalent in Loudoun County, Prince William County, and Fairfax County. More significantly, the proposed high rock content and minimum distance requirements will most likely affect land owners seeking permits in areas of the state characterized by hilly or mountainous terrain with relatively shallow soils underlain by bedrock. In general, most of the rocky soils are found in the western portions of the state. Two examples of these regions are the Shenandoah Valley and the mountainous regions of southwestern Virginia, particularly the counties of Wise, Dickinson, Buchanan, Scott, Lee, and Tazewell.

As discussed above, the proposed rock content requirements are likely to reduce the land area available for real estate development in these localities. Some development projects may no longer be feasible and cancelled. If this happens, the local government real estate tax revenues in these areas of the Commonwealth may be affected. The decline in the land area considered permeable under the current regulations is likely to reduce the developed acreage in the tax base, and consequently, the tax revenues. The increase in real estate prices due to scarcity is likely to increase the average value of developable parcels and increase tax revenues. The net effect on tax revenues will depend on the sizes of these balancing effects. Which of these effects will be greater is not known.

Projected impact on employment. The proposed regulations have the potential to promote demand for labor if new areas could be developed, but also have the potential to reduce the demand for labor if some development projects become no longer feasible. Thus, the net impact on employment is not known.

Effects on the use and value of private property. Some of the proposed changes are likely to have an effect on the use and value of private property. The owners of land where massed individual systems are no longer feasible are likely to experience a decline in land values. Similarly, the owners of land where development is no longer feasible due to high rock content are likely to experience a decline in land values as well. On the other hand, the owners of land where development may be possible by sewage treatment equipment are likely to see an increase in their land values. Finally, greater protection of adjacent properties will raise their value.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Department of Health concurs substantially with the economic impact assessment prepared by the Department of Planning and Budget regarding these regulations.

Summary:

Mass sewage disposal systems (systems larger than 1,200 gallons per day per acre) have a greater potential for failure

than domestic and small-commercial onsite systems. These large systems also pose a higher risk of ground water contamination than smaller systems. The amendments include standards for proper siting, design, construction, operation, and monitoring of mass sewage disposal systems. The amendments also establish criteria for the amount or percentage of rock allowed in the soils around and below a soil absorption system.

12 VAC 5-610-120. Definitions.

The following words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise:

"Agent" means a legally authorized representative of the owner.

"Alluvial soil" means a soil developing from recently deposited alluvium and exhibiting essentially no horizon development or modification of the recently deposited materials.

"Alluvium" means mineral materials, either weathered or unweathered, that are transported by flowing water and deposited or redeposited in a flood-plain or marine terrace.

"Aquifer" means water-bearing portion of a geologic formation that transmits water.

"Certification letter" means a letter issued by the commissioner, in lieu of a construction permit, which identifies a specific site and recognizes the appropriateness of the site for an onsite wastewater disposal system.

"Colluvial soil" means a soil developing from recently deposited colluvium and exhibiting essentially no horizon development or modification of the recently deposited materials.

"Colluvium" means an accumulation of soil material, or a mixture of stone fragments and soil material, deposited at the base of slopes or in depressional areas, primarily by gravity.

"Commissioner" means the State Health Commissioner or his subordinate who has been delegated powers in accordance with subdivision 2 of 12 VAC 5-610-40.

"Cr horizon" means weathered or soft bedrock and is used to indicate root restrictive layers or bedrock or saprolite.

"Dilution area" means the land immediately adjacent to and down gradient, in the direction of ground water flow, from a mass sewage disposal system, which is provided for the purpose of diluting nitrogen, or other nutrients occurring in wastewater, with ambient ground water, in order to assure compliance with nutrient standards contained in this chapter.

"District health department" means a consolidation of local health departments as authorized in § 32.1-31 C of the Code of Virginia.

"Division" means the Division of Onsite Sewage and Water Services, Office of Environmental Health Services, State Health Department or its administrative successor.

"Existing construction" (with failing sewage disposal systems) means an existing structure where the sewage disposal

system serving the structure has failed or is currently in violation of state law or regulations and requires correction.

"General approval" means approval granted to systems which are proven and tested in accordance with Article 2 (12 VAC 5-610-441 et seq.) of Part II of this chapter.

"Grandfathered lot" means:

1. Any lot upon which no permit has been issued and which is in a subdivision approved by the department prior to July 1, 2000, in accordance with a local subdivision ordinance. Individual lots may or may not have been evaluated; or
2. Any lot, parcel, or portion thereof with a previously issued permit or a specific written approval (not including a certification letter) from the department.

"Gray color" means a chroma-2 or less on the Munsell Color Chart.

"Impervious strata" means soil or soil materials with an estimated or measured percolation rate in excess of 120 minutes per inch.

"Local health department" means a branch of the State Health Department established in each city and county in accordance with § 32.1-30 of the Code of Virginia.

"Mass sewage disposal system" means a sewage disposal system or systems which will discharge effluent to a single absorption area or multiple absorption areas with or without combined flows, such that the loading rate applied to any acre, as determined by the department, exceeds 1,200 gallons per day.

"Mineral soil" means a soil consisting predominantly of, and having its properties determined predominantly by, mineral matter. A mineral soil usually contains less than 20% organic matter, but it may contain an organic surface layer up to 12 inches thick.

"New construction" means construction of a building for which a building permit is required.

"Office" means the Office of Environmental Health Services, State Health Department.

"Owner" means the Commonwealth or any of its political subdivisions, including sanitary districts, sanitation district commissions and authorities, any individual, any group of individuals acting individually or as a group, or any public or private institution, corporation, company, partnership, firm or association which owns or proposes to own a sewerage system or treatment works.

"Person" means an individual, corporation, partnership, association or any other legal entity.

"Previously issued permit" means any permit issued prior to July 1, 2000, and in accordance with the regulations in effect at the time the permit was issued. There is no distinction between an expired permit and one that has been continually renewed.

"Pump and haul" means any unusual circumstance wherein sewage is permitted to be transported by vehicle to a point of disposal. The term "pump and haul" includes all facilities and

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appurtenances necessary to collect and store the sewage for handling by a contractor having a valid sewage handling permit.

"Rock" or "bedrock" means continuous, coherent, lithologic material that has relative hardness depending on the degree of weathering. Bedrock has characteristics such as strike, dip, jointing, and lithological compositions. Structure and water movement are rock controlled. Bedrock grinds with an auger, and mechanical penetration is more difficult or prevented as the material gets harder.

"Rock fragments" are discrete, coherent pieces of rock or mineral that are 2 mm in diameter or larger and have a general lithologic composition.

"Saprolite" means material weathered from igneous or metamorphic rock, without soil structure, and with remnant structure and fabric of the parent rock which is soft in place and can be penetrated easily with an auger.

"Secondary effluent" means effluent treated to reduce five-day biochemical oxygen demand to 30 mg/l or less, total suspended solids to 30 mg/l or less, and fats, oils, and grease to less than 5 mg/l.

"Septic tank effluent" means effluent characterized by a five-day biochemical oxygen demand between 120 and 200 mg/l; total suspended solids between 70 and 150 mg/l; fats, oils, and grease of 30 mg/l or less; and having no other toxic, hazardous, or constituents not routinely found in residential wastewater flows.

"Septage" means the mat of grease and scum on the surface of septic tanks, the accumulated sludge at the bottom of tanks and the sewage present at the time of pumping.

"Sewage" means water-carried and nonwater-carried human excrement, kitchen, laundry, shower, bath or lavatory wastes separately or together with such underground, surface, storm or other water and liquid industrial wastes as may be present from residences, buildings, vehicles, industrial establishments or other places.

"Sewage disposal system" means a sewerage system or treatment works designed not to result in a point source discharge.

"Sewage handler" means any person who removes or contracts to remove and transports by vehicle the contents of any septic tank, sewage treatment plant, privy, holding tank, portable toilet or any sewage, septage or sewage sludges which have been processed to meet acceptable treatment standards as defined in this chapter or the Sewage Regulations (12 VAC 5-580-10 et seq.).

"Sewage handling" means the vehicular conveyance of sewage (See "Transportation" in § 32.1-163 of the Code of Virginia).

"Sewerage system" means pipe lines or conduits, pumping stations and force mains and all other construction, devices and appliances appurtenant thereto, used for the collection and conveyance of sewage to a treatment works or point of ultimate disposal.

"Shrink-swell soils" means soils with horizons that contain montmorillonite and other clays that excessively shrink upon drying and swell upon wetting.

"Sink hole" means a depression in the topography without a surface outlet for drainage from the low point. Sink holes are common in areas containing limestone and generally result from the collapse of solution cavities.

"Soil" means the weathered mineral and organic fraction of the earth's regolith, which is less than or equal to 2.0 mm in size as observed in place. Soil comprises sands, silts or clays or combinations of these textured components and may contain larger aggregate materials such as gravel, cobbles, stones or channers or precipitates from aqueous solution. Soil includes the A, O, B, C, and E horizons.

"Soil horizon" means a layer of soil or soil material approximately parallel to the land surface and different from adjacent genetically related layers in physical, chemical, and biological properties or characteristics such as color, structure, texture, consistency, kinds and numbers of organisms present, degree of acidity or alkalinity, etc.

"Subdivision" means multiple building lots derived from a parcel or parcels of land.

"Subsurface soil absorption" means a process which utilizes the soil to treat and dispose of effluent from a treatment works. (Also see "Subsurface drainfield" in § 32.1-163 of the Code of Virginia).

"Treatment works" means any device or system used in the storage, treatment, disposal or reclamation of sewage or combinations of sewage and industrial wastes, including but not limited to pumping, power and other equipment and appurtenances, septic tanks and any works, including land, that are or will be (i) an integral part of the treatment process or (ii) used for ultimate disposal of residues or effluent resulting from such treatment.

Article 3.

Mass Sewage Disposal Systems.

12 VAC 5-610-449. Special requirements for mass sewage disposal systems.

A. The criteria contained in this article apply to mass sewage disposal systems and shall supersede any other conflicting criteria contained elsewhere in this chapter. The purpose of this article is to identify systems with average flows over 750 gallons per day and because of the combination of factors associated with their flows, wastewater characteristics, or hydrologic considerations that have an increased risk of hydraulic failure (i.e., sewage surfacing) or present additional risks to ground water contamination. Examples of facilities that may be served by mass sewage disposal systems regardless of the system configuration are condominiums, shopping centers, commercial development, and massed individual (or combined systems) when proposed by a single developer. Note: this includes subdivisions. Examples of systems that are not considered mass drainfields are existing single family dwelling lots and new single family dwelling lots, which are not developed as part of a subdivision.

B. Ownership. Mass sewage disposal systems shall have a single owner as described in 12 VAC 5-610-250 I. To implement the provisions of this article, the requirements for mass sewage disposal systems shall apply to new subdivisions that utilize individual onsite sewage systems to serve individual single-family dwellings when subdivision approval is sought from the department. The owner of the proposed subdivision shall be responsible for complying with the requirements of this article. In those cases where a massing of individual systems serving a residential unit has resulted in a requirement to comply with this section, the single-owner requirement shall be deemed to be met so long as each system is located on the same property as the dwelling it serves and so long as all dwellings units are single-family detached units. In such cases, if treatment is required in order to comply with the nitrate requirements of this section, each owner shall be responsible for monitoring his system in accordance with the operation permit.

C. Uniform distribution. All mass sewage disposal systems shall be designed to provide uniform distribution. Mass sewage disposal systems shall not use a distribution box.

D. Sewage flows. Sewage systems serving single family dwellings shall be designed on the basis of two persons per bedroom using the equation $Q = [40 + 35 * (\text{the number of persons})]$.

1. For dwellings in excess of 2,000 square feet of heated living space, sewage flow designs shall be increased at least 50 gallons per day for each additional 500 square feet of heated living space.

2. Sewage systems shall be designed to reflect actual water use, including peak daily flow. The design flow should consider additional fixtures, hot tubs, or other pertinent factors as necessary.

3. Sewage flows for nonresidential facilities shall be designed in consultation with a professional engineer licensed in the Commonwealth of Virginia. The sewage flow shall be determined using available flow data, occupancy, operation patterns, and other measured data. Performance monitoring may be required to assure that the design flow accurately reflects the sewage flow and strength predicted.

4. AOSEs and Professional Engineers shall account for peak daily flows and flow variation before selecting a pretreatment device that disperses secondary or better effluent. Peak flow shall have a minimum peak flow factor of 1.8.

5. Professional engineers may propose design flows less than what is prescribed in this section. When a professional engineer proposes a design flow less than the figure specified by this section, then a conditional permit in accordance with 12 VAC 5-610-250 is required. Performance monitoring may be required to assure that the system is operated in accordance with the design flow and strength predicted by the engineer. Nothing shall prevent a professional engineer or AOSE from proposing a design flow in excess of the figures required by this section when professional judgement dictates that a greater design flow is best suited.

E. Footprint and absorption area. The minimum footprint area, which can be used as an absorption area for a mass sewage disposal system, shall be determined in accordance with Table 2.1. All or part of this footprint area may be used as the absorption area with the remainder used as a reserve area. The amount of absorption area shall be based on the degree of treatment provided to the wastewater, site and soil conditions, and method of dispersal. When septic tank effluent is dispersed, a minimum of 50% of the footprint area must be used as an absorption area.

Table 2.1: Minimum Footprint Area
Square Feet per 100 gallons

Ksat Cm/day	STE Management Level 1 or 2	STE Management Level 3 ¹	STE Management Level 4 or 5 ¹	SE or better Management Level 2	SE or better Management Level 3 ¹	SE or better Management Level 4 or 5 ¹
≥16.1	1510	1290	1130	760	640	530
14.1 – 16	1710	1450	1280	850	730	600
12.1 – 14	2000	1700	1500	1000	850	700
10.1 – 12	2380	2020	1780	1190	1010	830
8.1 – 10	2920	2480	2190	1460	1240	1020
6.1 – 8	3670	3120	2750	1840	1560	1290
4.1 – 6	4860	4130	3650	2430	2070	1700

¹ Uniform distribution (LPD) provides reduction in footprint area for management levels 3, 4 and 5 as follows: when the Ksat value is equal to or greater than 12 cm/day, then a 10% reduction can be given. When the Ksat value is less than 12 cm/day, then a 25% reduction can be given. Reduction of the footprint is at the option of the professional engineer.

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2.1 – 4	6480	5510	4860	3240	2750	2270
0.8 – 2.0	NA	NA	NA	NA	5000	5000
0.001 – 0.8	NA	NA	NA	NA	*	*

Model Program Management Level. See the Environmental Protection Agency's document entitled "Draft EPA Guidelines for the Management of Decentralized Wastewater Systems: September 26, 2000." A management program addresses the planning, siting, design, installation, operation, maintenance, performance monitoring, and enforcement (if necessary) of sewage systems. Five model programs are described below:

1. Management Level 1. Owner owns, operates and maintains sewage system. Owner has awareness of sewage system needs. The department maintains system inventory list and has awareness of sewerage system maintenance needs. The department establishes program to remind owner of scheduled preventive maintenance needs.

2. Management Level 2. Owner owns sewage system but keeps maintenance contract with an Onsite Management Entity (OME) for the life of the system. Owner has specific reporting requirements at regular intervals (determined by the department) that are obtained from the OME. The department administers tracking system for maintenance contract compliance.

3. Management Level 3. Owner owns sewage system. Operation permit establishes specific and measurable performance monitoring and reporting requirements from an OME. The operation permit is renewed at an interval established by the department. Requires system inspection at time of operation permit renewal.

4. Management Level 4. Owner owns sewage system. Private or public utility operates and maintains sewage system. The utility is issued the operation permit. The operation permit establishes specific and measurable performance monitoring and reporting requirements. The operation permit may be renewed at an interval established by the department. Financial, management, and technical audits of the utility occur.

5. Management Level 5. Private or public utility owns, operates, and maintains the sewage system. All responsibility for the system to work properly is transferred to a professional entity. Financial, management, and technical audits of the utility occur.

F. Recordation. In addition to the requirements of 12 VAC 5-610-700, a dedication document duly recorded with the clerk of the circuit court shall be furnished to the department stating that the sewage disposal areas and nutrient dilution areas will be used only for sewage renovation and may not be excavated or used for permanent structures while the mass sewage disposal system is utilized.

G. Review process. In addition to the requirements found in this article, the treatment processes for all systems over 5,000 G.P.D. shall be permitted in accordance with 12 VAC 5-581-270 of the Sewage Collection and Treatment Regulations

(Sewage Regulations). The dispersal methodology may be reviewed under either this chapter or the Sewage Regulations, as deemed appropriate by the division.

12 VAC 5-610-449.1. Site assessment, verification, and monitoring.

A. Sites shall be evaluated by the criteria in this section based on projected wastewater flows. All site calculations for water mounding and groundwater nitrate evaluation shall be prepared by a professional engineer licensed in the Commonwealth of Virginia.

B. Nitrate evaluation. The applicant shall address the prevention of ground water contamination. Documentation shall include, but not be limited to, demonstrating that nitrate-nitrogen concentrations in the groundwater will comply with Part IV (9 VAC 25-260-190 et seq.) of 9 VAC 25-260, groundwater standards promulgated by the Department of Environmental Quality. Background samples from the groundwater shall be collected, analyzed and submitted to the department prior to approval of the construction permit to determine the required treatment.

1. Dilution areas. Dilution areas, if utilized, shall be adjacent to and down gradient from the mass sewage disposal system and shall be in line with the direction of local ground water flow when known. If the direction of local ground water flow is not known and cannot be readily determined, the regional ground water direction may be used.

2. Mass balance. Nitrogen calculations shall be based on a mass balance principle. The following equation may be used to determine the minimum dilution area. The Hantzsche and Finnemore (1992) mass-balance equation for nitrogen:

$$A = \frac{0.01344W(N_w - dN_w - N_r)}{R(N_r - N_b)}$$

Where

A = Gross area in acres

W = Effluent quantity in gallons per day (gpd)

N_w = Nitrogen concentration in the effluent (mg/l)

d = Nitrogen removal fraction in the soil/plant system (dependent upon the effluent quality and dispersal method)

N_r = Nitrogen concentration (mg/l) desired in the recharge water (i.e., discharge limit for nitrogen)

N_b = Nitrogen concentration in the rain (mg/l)

R = Amount of rain infiltrated into the ground (inches per acre per year), typically no more than 50% of the average rainfall.

0.01344 = conversion factor.

3. Raw and septic tank effluent from residential dwellings shall be defined to have 90 mg/l of total nitrogen concentration, of which not more than 20% may be assumed to be lost from a septic tank effluent as a result of gaseous losses prior to entering a saturated zone. When secondary treatment with nitrification is provided and the installation depth does not exceed 18 inches, the engineer may assume a 50% reduction in nitrate nitrogen from gaseous losses, plant uptake, and denitrification combined.

4. No reduction in nitrate-nitrogen loading rate shall be given for reduced water flow. For the purposes of determining ground water nitrate-nitrogen loads from residential dwellings, the engineer may assume a flow as provided in 12 VAC 5-610-670 and an infiltration value of 25% of the rainfall. Higher infiltration rates may be approved by the department on a case-by-case basis when supporting documentation is provided. Nothing contained in this subsection prevents the use of water-saving fixtures.

C. Water mounding evaluation. The applicant shall address the potential for water mounding below the absorption area. The evaluation shall consider the impact of mass sewage disposal systems (proposed or existing) within 1,500 feet of the planned mass sewage disposal system. Data shall be submitted that will demonstrate how a minimum of 24 inches of unsaturated soil or 18 inches with secondary pretreatment will be maintained below the trench bottom. The separation distance may be reduced to 12 inches when advanced secondary treatment (BOD and TSS less than 10 mg/L) is provided and to six inches when enhanced secondary treatment and disinfection are provided. All water mounding calculations shall use measured hydraulic conductivity readings. However, estimated hydraulic conductivity rates

may be used for system designs of 5,000 gpd or less when site and soil evaluations and existing geotechnical information are deemed satisfactory by the local health department. Tensiometers may be required by the department to monitor soil moisture below mass sewage disposal systems.

D. Wastewater strength. No effluent stronger than septic tank effluent may be discharged to a mass sewage disposal system. When the wastewater is not from residential units, a professional engineer shall perform a wastewater characterization. When the strength is expected to exceed one or more of the values used to define septic tank effluent (see definitions in 12 VAC 5-610-120), pretreatment shall be provided to reduce the wastewater strength below the values for septic tank effluent.

E. Geotechnical evaluation. When flows exceed 5,000 gpd, all proposals for mass drainfield systems shall include boring logs and other geophysical data, collected from the absorption area or other appropriate locations, sufficient to characterize the aquifer and vadose zone in terms of depth, thickness, transmissivity, and relationship to other nearby uses of ground and surface water. Such information shall include but not be limited to geologic, soils and hydrologic maps and reports produced by the United States Geologic Survey; the Virginia Department of Mines, Minerals and Energy; and the Natural Resources Conservation Service.

F. System performance. An operation and maintenance manual shall be submitted and approved by the department prior to the issuance of the operation permit. All mass sewage disposal systems over 5,000 gpd shall have a certified wastewater treatment plant operator one class higher than that indicated for discharging systems in the Sewage Collection and Treatment Regulations (12 VAC 5-581). Systems 5,000 gpd or less shall have at least a Class IV operator. Operation, maintenance and monitoring are the responsibility of the system owner. Effluent samples shall be collected at a point after the last engineered treatment process and before entering the absorption field.

1. Frequency. Unless determined by the division, sampling shall be in accordance with Table 2.2.

Table 2.2

Sampling Schedule for Mass Sewage Disposal Systems¹

Plant Size		>100,000 gpd	40,001-100,000 gpd	5001- 40,000 gpd	>750 – 5000 gpd
Test Name	Sample Point	Sample Type and Collection Frequency			
Flow	Effluent	Totalizing, Indicating, and Recording Equipment	Totalizing, Indicating, and Recording Equipment	Totalizing Meter Or Pump Counter	Totalizing Meter Or Pump Counter
BOD ₅	Effluent	24 HC 3 days/week	8 HC 1/week	4 HC 1/month	Grab 2/year

¹ Operation Permit will indicate which of the tests are required and the effluent limit.

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Total Suspended Solids	Effluent	24 HC 3 days/week	8 HC 1/week	4 HC 1/month	Grab 2/year
Total Residual Chlorine ²	Effluent	3/day at 4 Hr. Intervals	3/day at 4 Hr. Intervals	3/day at 4 Hr. Intervals	Grab 1/month
Fecal Coliform	Effluent	Grab 3 days/week	Grab 3 days/week	Grab 1/week	Grab 1/month
PH, DO	Effluent	Grab 1/day	Grab 1/day	Grab 1/day	Grab 1/month
Nitrogen	Effluent	8 HC 2 days/month	8 HC 1 month	4 HC 1/month	Grab 4/year

HC – Hours Composite

2. *Responsibility for sampling.* The owner of the mass sewage disposal system shall be responsible for assuring that all samples are collected, analyzed, and reported to the department in accordance with this chapter. All laboratory tests shall be conducted in accordance with the 1992 edition of the Standard Methods for the Examination of Water and Wastewater (American Public Health Association).

3. *Reporting.* All effluent sample results shall be reported to the department by the 15th, or the first subsequent business day if the 15th falls on a weekend or holiday, of the month following the month the samples were collected. Results shall be submitted on a form approved by the division. The owner shall submit a yearly operational report, signed by the certified wastewater treatment plant operator to the department. This report shall be on a form approved by the division and due each year beginning one year from the date of the operation permit. This report shall include but not be limited to a summary of the performance of the wastewater treatment facility and any recommended maintenance items.

12 VAC 5-610-490. Characteristics of soils that determine suitability.

A. Color. Color is a key indication of the suitability of a soil.

1. Red and yellow mottlings may indicate slow internal drainage and may indicate a seasonal water table.
2. Gray and/or gray mottlings indicate seasonal water tables for at least three weeks duration.
3. Black appearance may be due to organic matter which has accumulated due to poor soil drainage.

B. Texture. The term texture refers to the relative proportion of various size groups of individual soil grains in a mass of soil. Specifically it refers to the proportion of sand, silt, and clay.

1. Soil Classification. For the purpose of this chapter soils have been categorized into four groups based on texture as follows:

- a. Texture Group I--sand and loamy sand;
- b. Texture Group II--sandy loam, loam, and sandy clay loam. Texture Group II soils are subdivided into Texture Group IIa and IIb soils. Texture Group IIa soils consist of sandy loam soils with percolation rates less than 31 minutes per inch and no structure development. The remainder of soils within this texture group are Texture Group IIb soils;
- c. Texture Group III--silt loam, clay loam, silty clay loam; and
- d. Texture Group IV--sand clay, silty clay and clay.

2. The soil texture shall be estimated by field testing. The field test that shall be applied is contained in APPENDIX F and is entitled "Field Guide to Soil Texture Classes." Laboratory estimation of texture by sieve and sedimentation analysis may be substituted for the field test at the owner's request and expense. Samples shall be collected by the laboratory under supervision of the district or local health department.

C. Permeability. The term permeability pertains to the characteristics of the soil that enable water or air to move through its pores. The permeability of a soil profile may be limited by the presence of one nearly impermeable horizon, even though the others are permeable.

² If required. When an alternative disinfection process is used, methods of testing shall be approved by the department on a case-by-case basis.

1. Estimated rates. The soil classifications contained in subdivision B 1 of this section have been assigned the following estimated rates in minutes per inch for the purpose of design. These rates may be modified when experience has shown that because of soil structure the texture group has a demonstrated rate different from that assigned.

- a. Texture Group I--up to 16;
- b. Texture Group IIa--17 to 30;
- c. Texture Group IIb--31 to 45;
- d. Texture Group III--46 to 90; and
- e. Texture Group IV--equal to or greater than 91.

2. Percolation tests. When the estimated percolation rates are in question, percolation tests may be performed, however, the district or local health department may require percolation tests to determine "measured" percolation rates.

a. Requirements. Percolation tests are to be performed under the supervision of the district or local health department. Test holes shall be located at points and depths selected and/or approved by the district or local health department. A minimum of three holes representative of the absorption area are required. When the results of the individual test holes have a spread of more than 30 minutes/inch, five holes with at least one hole in the center of the proposed absorption area are required. Records of all percolation tests performed shall be attached to the application (See APPENDIX G).

b. Procedure. All percolation tests shall be performed in accordance with the procedure contained in APPENDIX G.

c. Records. Data on swelling, saturation and measurement of the percolation rate shall be recorded on forms by the district or local health department; examples of these forms are contained in APPENDIX G.

d. Interpretation of percolation test results. The absorption area shall be based on the average percolation rate measured in the test holes. The average percolation rate shall be computed by determining the percolation rate (minutes/inch) for each hole and averaging those values. When the percolation rate for an individual hole is in excess of 240 minutes/inch, the area represented may be retested one time and the most favorable rate used to calculate the percolation rate.

D. Soil restrictions. A soil restriction is a feature in the soil that impedes the percolation of water. Restrictions generally consist of a layer of soil horizon within a soil that is firmly compacted or is very rich in clay. Soils containing restrictions may require verification of the ~~percolation permeability rate by percolation tests~~. Examples of restrictions are listed below.

1. ~~Pans.~~ The term pans include hard pans, fragipans, clay pans, plowpans, traffic pans, iron pans, and plinthic horizons.

2. ~~Stoniness.~~ The term stoniness pertains to the relative proportions of stones present in a soil. Stoniness reduces

~~the soil volume for absorption, and therefore, may require a larger subsurface soil absorption field than would be indicated by soil texture.~~

E. Soil concretions. Soil concretions as hard grains, pellets, or nodules from concentrations of compounds in the soil that cement the soil grains together. Concretions are indicative of slow percolation rates, restrictions, and/or seasonal water tables.

F. Shrink-swell soils. Shrink-swell soils may exhibit satisfactory percolation rates when dry and therefore must be thoroughly wetted before a percolation test is performed.

G. Rock fragments as a limiting factor.

1. *Systems dispersing septic tank effluent. In order to assure effluent dispersal, a minimum of 18 inches of suitable soil below the trench bottom must be present and may contain up to 60% rock fragments by volume. The soil materials in the 18-inch zone must have a texture of loamy sand or finer. If the soil materials are sand, then a minimum three-foot horizon of sand, with up to 60% rock fragments, must be present below the trench bottom.*

Soil horizons below the trench bottom that have greater than 60% rock fragments by volume may be considered if the thickness of the high-rock content horizons is a minimum of five feet and the soil materials have a texture of loamy sand or finer.

2. *Systems dispersing secondary or better effluent. In order to assure effluent dispersal, a minimum of 12 inches of suitable soil below the trench bottom must be present and may contain up to 60% rock fragments by volume. The soil materials in the 12-inch zone must have a texture of loamy sand or finer. If the soil materials are sand, then a minimum two-foot horizon of sand, with up to 60% rock fragments, must be present below the trench bottom.*

Soil horizons below the trench bottom that have greater than 60% rock fragments by volume may be considered if the thickness of the high-rock content horizons is a minimum of three feet and the soil materials have a texture of loamy sand or finer.

VA.R. Doc. No. R01-192; Filed July 10, 2002, 11 a.m.

TITLE 14. INSURANCE

STATE CORPORATION COMMISSION

REGISTRAR'S NOTICE: The State Corporation Commission is exempt from the Administrative Process Act in accordance with § 2.2-4002 A 2 of the Code of Virginia, which exempts courts, any agency of the Supreme Court, and any agency which by the Constitution is expressly granted any of the powers of a court of record.

Title of Regulation: 14 VAC 5-210. Rules Governing Health Maintenance Organizations (amending 14 VAC 5-210-70 and 14 VAC 5-210-90).

Proposed Regulations

Statutory Authority: §§ 12.1-13 and 38.2-223 of the Code of Virginia.

Public Hearing Date: Hearing will be scheduled if requested.
Public comments may be submitted until August 16, 2002.

Agency Contact: Althelia Battle, Principal Insurance Market Examiner, Bureau of Insurance, State Corporation Commission, P.O. Box 1157, Richmond, VA 23219, telephone (804) 371-9154, FAX (804) 371-9944, toll free 1-800-552-7945 or e-mail abattle@scc.state.va.us.

Summary:

The proposed amendments delete the mandatory maximum copayment requirements for health maintenance organizations and make them voluntary. The revisions clarify the various cost sharing arrangements that may be imposed for supplemental health care services, and clarify the requirement for dental services resulting from an accident.

AT RICHMOND, JUNE 27, 2002

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. INS-2002-00170

Ex Parte: In the matter of
Adopting Revisions to the Rules
Governing Health Maintenance
Organizations

ORDER TO TAKE NOTICE

Section 12.1-13 of the Code of Virginia provides that the State Corporation Commission ("Commission") shall have the power to promulgate rules and regulations in the enforcement and administration of all laws within its jurisdiction, and § 38.2-223 of the Code of Virginia provides that the Commission may issue any rules and regulations necessary or appropriate for the administration and enforcement of Title 38.2 of the Code of Virginia.

The rules and regulations issued by the Commission pursuant to § 38.2-223 of the Code of Virginia are set forth in Title 14 of the Virginia Administrative Code.

The Bureau of Insurance has submitted to the Commission proposed revisions to Chapter 210 of Title 14 of the Virginia Administrative Code entitled "Rules Governing Health Maintenance Organizations," which amend the rules at 14 VAC 5-210-70 and 14 VAC 5-210-90.

The proposed revisions delete the mandatory maximum copayment requirements for health maintenance organizations and make them voluntary. The revisions clarify the various cost sharing arrangements which may be imposed for supplemental health care services, and clarify the requirement for dental services resulting from an accident.

The Commission is of the opinion that the proposed revisions submitted by the Bureau of Insurance should be considered for adoption with an effective date of September 1, 2002.

THEREFORE, IT IS ORDERED THAT:

(1) The proposed revisions to the "Rules Governing Health Maintenance Organizations," which amend the rules at 14 VAC 5-210-70 and 14 VAC 5-210-90, be attached hereto and made a part hereof.

(2) All interested persons who desire to comment in support of or in opposition to, or to request a hearing to oppose the adoption of, the proposed revisions shall file such comments or hearing request on or before August 16, 2002, in writing with the Clerk of the Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23218 and shall refer to Case No. INS-2002-00170.

(3) If no written request for a hearing on the proposed revisions is filed on or before August 16, 2002, the Commission, upon consideration of any comments submitted in support of or in opposition to the proposed revisions, may adopt the revisions proposed by the Bureau of Insurance.

(4) AN ATTESTED COPY hereof, together with a copy of the proposed revisions, shall be sent by the Clerk of the Commission to the Bureau of Insurance in care of Deputy Commissioner Gerald A. Milsky, who forthwith shall give further notice of the proposed adoption of the revisions to the rules by mailing a copy of this Order, together with the proposed revisions, to all persons licensed by the Commission to transact the business of a health maintenance organization.

(5) The Commission's Division of Information Resources forthwith shall cause a copy of this Order, together with the proposed revisions, to be forwarded to the Virginia Registrar of Regulations for appropriate publication in the Virginia Register of Regulations.

(6) On or before July 10, 2002, the Commission's Division of Information Resources shall make available this Order and the attached proposed revisions on the Commission's website, <http://www.state.va.us/scc/caseinfo/orders.htm>.

(7) The Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of paragraph (4) above.

14 VAC 5-210-70. General requirements.

A. Conversion of coverage.

1. Each health care plan shall offer to its enrollees, upon termination of coverage under a group or individual contract, the right to convert coverage, within 31 days after such termination of coverage, to an individual contract. Such converted coverage:

a. Shall provide benefits which, at a minimum, meet the requirements set forth in subsection B of 14 VAC 5-210-90; and

b. Shall not be refused on the basis that the enrollee no longer resides or is employed in the health maintenance organization's service area.

2. The conversion contract shall cover the enrollee covered under the group or individual contract as of the date of termination of the enrollee's coverage under such contract. Coverage shall be provided without additional evidence of

insurability, and no preexisting condition limitations or exclusions may be imposed other than those remaining unexpired under the contract from which conversion is exercised. Any probationary or waiting period set forth in the conversion contract shall be deemed to commence on the effective date of coverage under the original contract.

3. A conversion contract shall not be required to be made available when:

- a. The enrollee is covered by or is eligible for benefits under Title XVIII of the Social Security Act (Public Law 89-97, 79 Stat 286 (July 30, 1965));
- b. The enrollee is covered by or is eligible for substantially the same level of hospital, medical, and surgical benefits under state or federal law;
- c. The enrollee is covered by substantially the same level of hospital, medical, and surgical benefits under any policy, contract, or plan for individuals in a group;
- d. The enrollee has not been continuously covered during the three-month period immediately preceding that enrollee's termination of coverage; or
- e. The enrollee was terminated by the health care plan for any of the reasons stated in 14 VAC 5-210-80 B 1 a, b, c, and f.

B. Coordination of benefits.

1. A health care plan may include in its group contract or individual contract a provision that the value of any benefit or service provided by the health maintenance organization may be coordinated with any other health insurance or health care benefits or services that are provided by any other group policy, group contract, or group health care plan, including coverage provided under governmental programs, so that no more than 100% of the eligible incurred expenses is paid.

2. A health care plan shall not be relieved of its duty to provide a covered health care service to any enrollee because the enrollee is entitled to coverage under any other policy, contract, or health care plan. In the event that benefits are provided by both a health care plan and another policy, contract, or health care plan, the determination of the order of benefits shall in no way restrict or impede the rendering of services required to be provided by the health care plan. The health maintenance organization shall be required to provide or arrange for the service first and then, at its option, seek coordination of benefits with any other health insurance or health care benefits or services that are provided by any other group policy, group contract, or group plan.

C. Copayments.

1. A health maintenance organization may require a copayment of enrollees as a condition for the receipt of specific basic health care services described in subsection B of 14 VAC 5-210-90. Such copayments shall be shown in the evidence of coverage as a specified dollar amount or as a percentage of the cost of providing such service for each specific basic health care service for which the health

maintenance organization requires a copayment. ~~The maximum amount of copayment the health maintenance organization may require in any contract or calendar year shall not exceed 200% of the total annual premium per single member or family unit. The maximum copayment amount shall be based upon the actual premium charged, including any employer contributions, for that member or family's coverage. The maximum copayment amount shall be shown in the evidence of coverage as a specified dollar amount.~~

2. A health maintenance organization may impose *cost sharing arrangements* other ~~copayments for supplemental health care services~~ than those specified in this subsection *for supplemental health care services*.

3. ~~Each~~ *If the health maintenance organization has an established copayment maximum, it shall keep accurate records of each enrollee's copayment expenses and notify the enrollee when his copayment maximum is reached. Such notification shall be given no later than 30 days after the copayment maximum is reached. The health maintenance organization shall not charge additional copayments for the remainder of the contract or calendar year, as is appropriate. The health maintenance organization shall also promptly refund to the enrollee any copayments charged after the copayment maximum is reached. Any maximum copayment amount shall be shown in the evidence of coverage as a specified dollar amount, and the evidence of coverage shall clearly state the health maintenance organization's procedure for meeting the requirements of this subsection.*

4. The provisions of this subsection shall not apply to any Family Access to Medical Insurance Security (FAMIS) Plan (i) authorized by the United States Centers for Medicare and Medicaid Services pursuant to Title XXI of the Social Security Act (42 USC § 1397aa et seq.) and the state plan established pursuant to Chapter 13 (§ 32.1-351 et seq.) of Title 32.1 of the Code of Virginia and (ii) underwritten by a health maintenance organization.

D. Description of providers. A list of the names and locations of all affiliated providers shall be required to be provided to subscribers by the health maintenance organization at the time of enrollment or at the time the contract or evidence of coverage is issued and shall be made available upon request or at least annually.

E. Description of service area. A description of the service area within which the health maintenance organization shall provide health care services shall be required to be provided to subscribers by the health maintenance organization at the time of enrollment or at the time the contract or evidence of coverage is issued and shall be made available upon request or at least annually.

F. Extension of benefits.

1. Every group contract issued by a health maintenance organization shall contain a reasonable extension of benefits upon discontinuance of the group contract with respect to members who become totally disabled while enrolled under the contract and who continue to be totally disabled at the date of discontinuance of the contract.

Proposed Regulations

2. Upon payment of premium, coverage shall remain in full force and effect for a reasonable period of time not less than 180 days, or until such time as the member is no longer totally disabled, or until such time as a succeeding carrier elects to provide replacement coverage to that member without limitation as to the disabling condition.

3. Upon termination of the extension of benefits, the enrollee shall have the right to convert coverage as provided for in subsection A of this section.

G. Freedom of choice.

1. At the time of enrollment each enrollee shall have the right to select a primary care physician from among the health maintenance organization's affiliated primary care physicians, subject to availability.

2. Any enrollee who is dissatisfied with his primary care physician shall have the right to select another primary care physician from among the health maintenance organization's affiliated primary care physicians, subject to availability. The health maintenance organization may impose a reasonable waiting period for this transfer.

H. Grievance procedure.

1. Each health maintenance organization shall establish and maintain a grievance or complaint system to provide reasonable procedures for the prompt and effective resolution of written complaints. A record of all written complaints shall be maintained for a period of at least three years.

2. Every health maintenance organization shall provide complaint forms and/or written procedures to be given to enrollees who wish to register written complaints. Such forms or procedures shall include the address and telephone number to which complaints must be directed and shall also specify any required time limits imposed by the health maintenance organization.

3. The grievance system shall provide for complaints to be resolved within a reasonable period of time, not more than 180 days from the date the complaint is registered. This period may be extended (i) in the event of a delay in obtaining the documents or records necessary for the resolution of the complaint, or (ii) by the mutual written agreement of the health maintenance organization and the enrollee registering the complaint.

4. Pending the resolution of a written complaint filed by a subscriber or enrollee, coverage may not be terminated for the subscriber or enrollee for any reason which is the subject of the written complaint, except where the health maintenance organization has, in good faith, made an effort to resolve the complaint and coverage is being terminated as provided for in subsection B of 14 VAC 5-210-80.

5. Where enrollee complaints and grievances may be resolved through a specified arbitration agreement, the enrollee shall be advised in writing of his rights and duties under the agreement at the time the complaint is registered. No contract or evidence of coverage that entitles enrollees to resolve complaints and grievances through an arbitration agreement shall limit or prohibit such arbitration for any

claims asserted having a monetary value of \$250 or more. If the enrollee agrees to binding arbitration his written acceptance of the arbitration agreement shall not be executed prior to the time the complaint is registered nor subsequent to the time an initial resolution is made, and the agreement must be accompanied by a statement setting forth in writing the terms and conditions of binding arbitration.

14 VAC 5-210-90. Services.

A. Access to care.

1. Each health maintenance organization shall establish and maintain adequate arrangements to assure both availability and accessibility of adequate personnel and facilities providing health care services including:

a. Reasonable hours of operation and after-hours emergency health care;

b. Reasonable proximity to enrollees within the service area so as not to result in unreasonable barriers to accessibility;

c. Sufficient personnel, including health professionals, administrators, and support staff, to reasonably assure that all services contracted for will be accessible to enrollees on an appropriate basis without delays detrimental to the health of enrollees; and

d. Adequate arrangements to provide inpatient hospital services for basic health care.

2. Each health maintenance organization shall make available to each enrollee the services of specialists as part of the provision of basic health care services.

B. Basic health care services.

1. Each health maintenance organization shall provide, or arrange for the provision of, as a minimum, basic health care services which shall include the following:

a. Inpatient hospital and physician services. Medically necessary hospital and physician services affording inpatient treatment to enrollees in a licensed hospital for a minimum of 90 days per contract or calendar year, except that services affording inpatient treatment for mental, emotional or nervous disorders, including alcohol and drug rehabilitation and treatment, shall be provided for not less than 30 days per contract or calendar year as medically necessary in a mental or general hospital or other licensed drug and alcohol rehabilitation facility; however, services for alcohol and drug rehabilitation may be limited to a service cost to the health maintenance organization or \$80 per inpatient day up to the maximum of 30 days per contract or calendar year; provided, any payment made by the enrollee for services beyond the \$80 per inpatient day limit shall not be included in or limited by the copayment limits prescribed by subsection C of 14 VAC 5-210-70. Enrollees may be subject to a 90-day lifetime limit for inpatient services for alcohol and drug rehabilitation. Hospital services include room and board; general nursing care; special diets when medically necessary; use of operating room and related facilities;

use of intensive care unit and services; x-ray, laboratory, and other diagnostic tests; drugs, medications, biologicals, anesthesia, and oxygen services; special duty nursing when medically necessary; short-term physical therapy, radiation therapy, and inhalation therapy; administration of whole blood and blood plasma; and short-term rehabilitation services. Physician services include medically necessary health care services performed, prescribed, or supervised by physicians within a hospital for registered bed patients;

b. Outpatient medical services. Medically necessary health care services performed, prescribed or supervised by physicians for enrollees which may be provided in a nonhospital based health care facility, at a hospital, in a physician's office, or in the enrollee's home, and shall include consultation and referral services. Outpatient medical services shall also include diagnostic services, treatment services, short-term physical therapy and rehabilitation services the provision of which the health maintenance organization determines can be expected to result in the significant improvement of a member's condition within a period of 90 days, laboratory services, x-ray services, and outpatient surgery. Outpatient services for the treatment of mental, emotional, or nervous disorders, including alcohol and drug rehabilitation and treatment, shall not be required to be included as basic health care services but shall be made available to all group contracts as an additional outpatient service; however, services made available as follows shall be deemed to meet this requirement of availability:

(1) Twenty outpatient visits per member per year, as may be necessary and appropriate for short-term evaluative or crisis intervention mental health services, or both.

(2) Diagnosis, medical treatment and referral services, including referral services to appropriate ancillary services, for the abuse of or addiction to alcohol and drugs.

(a) Diagnosis and medical treatment for the abuse of or addiction to alcohol and drugs shall include detoxification for alcoholism or drug abuse on either an outpatient or inpatient basis, whichever is medically determined to be appropriate, in addition to the other required basic health care services for the treatment of other medical conditions.

(b) Referral services may be either for medical or for non-medical ancillary services. Medical services shall be a part of basic health care services.

Any outpatient services made available for the treatment of mental, emotional or nervous disorders, including alcohol and drug rehabilitation and treatment, may be subject to a copayment of not more than 50% of the cost of such services and limited for any applicable benefit period to a cost to the health maintenance organization as determined by it of no less than \$1,000, provided, further, the copayment permitted hereby and any further copayment resulting from the cost limitation permitted hereby need not be included in or limited by the

copayment limit prescribed by subsection C of 14 VAC 5-210-70.

c. Diagnostic laboratory and diagnostic and therapeutic radiologic services;

d. Preventive health services. Services provided with the goal of protection against and early detection and minimization of the ill effects and causes of disease or disability, including well-child care from birth, eye and ear examinations for children age 17 and under to determine the need for vision and hearing correction, periodic health evaluations, and immunizations; and

e. In and out of area emergency services, including medically necessary ambulance services, available on an inpatient or an outpatient basis 24-hours per day, seven-days per week.

2. Services not required to be provided as basic health care services, for the purpose of this section, include but are not limited to:

a. Except as required as a basic health care service in subdivision B 1 d, of this section, routine eye examinations or refractions, including examinations for astigmatism, myopia, or hyperopia; and eye glasses or contact lenses resulting from routine eye examinations;

b. Dental services other than those which are medically necessary as a result of accidental injury ~~which occurs while an individual is enrolled in the health care plan~~ for which treatment is covered as a basic health care service and for which treatment is requested by the enrollee within 60 days of the accidental injury;

c. Prescription drugs; and

d. Long-term physical therapy and rehabilitation.

C. Out-of-area benefits. In addition to out-of-area emergency services required to be provided as basic health care services, a health maintenance organization may offer to its enrollees indemnity benefits covering out-of-area services. A description of the procedure for obtaining any out-of-area services shall be included in the evidence of coverage as well as a statement of any restrictions or limitations on out-of-area services and any requirements that the health maintenance organization be contacted before obtaining such services. Any health care plan that requires the enrollee to contact the health maintenance organization before obtaining out-of-area services shall provide for emergency telephone consultation on a 24-hour per day, seven-day per week basis.

D. Supplemental health care services. In addition to the basic health care services required to be provided in subsection B of this section, a health maintenance organization may offer to its enrollees any supplemental health care services it chooses to provide.

Such services may be limited as to time and cost. Any copayment requirements provided for under subsection C of 14 VAC 5-210-70 ~~of this chapter~~ shall not apply to supplemental health care services.

VA.R. Doc. No. R02-232; Filed July 1, 2002, 1:24 p.m.

Proposed Regulations

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD FOR BARBERS AND COSMETOLOGY

Title of Regulation: **18 VAC 41-10. Public Participation Guidelines (adding 18 VAC 41-10-10 through 18 VAC 41-10-90).**

Statutory Authority: §§ 2.2-4007 and 54.1-201 of the Code of Virginia.

Public Hearing Date: September 10, 2002 - 9:30 a.m.

Public comments may be submitted until 5 p.m. on September 27, 2002.

(See Calendar of Events section for additional information)

Agency Contact: William H. Ferguson, II, Assistant Director, Board for Barbers and Cosmetology, 3600 W. Broad Street, Richmond, VA 23230, telephone (804) 367-8590, FAX (804) 367-6295 or e-mail barbercosmo@dpor.state.va.us.

Basis: Section 2.2-4007 D of the Code of Virginia provides that public participation guidelines for soliciting the input of interested parties in the formation and development of its regulations shall be developed, adopted and utilized by each agency pursuant to the provisions of the Administrative Process Act.

Section 54.1-201 of the Code of Virginia authorizes each regulatory board's power and duty to promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) necessary to ensure continued competency, to prevent deceptive or misleading practices by practitioners and to effectively administer the regulatory system administered by the regulatory board.

Purpose: Public Participation Guidelines are promulgated to ensure that the public has knowledge and opportunity to participate in the formation and development of regulations and in so doing protects the health, safety, or welfare of the citizens of the Commonwealth.

Substance:

18 VAC 41-10-10 contains definitions for Administrative Process Act, Agency, Notification Lists, Organization, and Person.

18 VAC 41-10-20 states that the agency will mail such documents or notification of how to obtain a copy electronically of "Notice of Intended Regulatory Actions," "Notice of Comment Period" and a notice that final regulations have been adopted.

18 VAC 41-10-30 outlines the necessary procedures, by writing or electronically, for a person or organization to be placed on or deleted from the mailing list.

18 VAC 41-10-40 directs who may petition the agency to adopt or amend regulations.

18 VAC 41-10-50 outlines procedures requiring publishing of Notice of Intended Regulatory Action that will provide for a comment period of at least 30 days and will state whether or not a public hearing will be held and gives specific instances on when the agency must hold a comment period and when the agency must reevaluate the regulations.

18 VAC 41-10-60 states the process for evaluating an existing regulation within two years of promulgation including the conducting of informal proceedings, notice of proceedings, and how proceedings are held.

18 VAC 41-10-70 describes the notification of meeting required when anticipation or adoption of regulation will occur, provides for submittals on changes to the regulations, and the agency's action to submittals.

18 VAC 41-10-80 gives direction on formulation of advisory committees to participate in the formulation, promulgation, adoption, and review of regulations.

18 VAC 41-10-90 gives applicability of the section to promulgated and adopted regulations.

Issues: The proposed regulatory action is advantageous to the public in that it will establish guidelines that provide for public participation in the promulgation and amending of regulations pertaining to the Board for Barbers and Cosmetology. There are no disadvantages to the public or the Commonwealth.

Department of Planning and Budget's Economic Impact Analysis: The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007 G of the Administrative Process Act and Executive Order Number 25 (98). Section 2.2-4007 G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the proposed regulation. The newly combined Board for Barbers and Cosmetology (board) proposes to promulgate the Board for Barbers and Cosmetology Public Participation Guidelines, which replaces the separate Board for Barbers Public Participation Guidelines and the Board for Cosmetology Public Participation Guidelines. The proposed regulations differ from the current regulations by allowing the board to accept requests from individuals to be placed on the public participation notification list via electronic means, and to send regulatory notifications to list members electronically. Currently, only written requests and mailed notifications are permitted.

Estimated economic impact. Under the Administrative Process Act, all state agencies that promulgate regulations are required to maintain public participation mailing lists containing the names of all parties that have registered an interest in a particular regulation. Membership on these lists typically includes members of the regulated community, public

interest groups, law firms, and individual citizens with an interest in a particular area of regulation.

There are no clear disadvantages associated with allowing interested parties to use electronic communication rather than mail for joining the notification list and for receiving notifications. Individuals may choose to remain on the traditional mailing lists, which will continue to be maintained by the Board. If electronic notification and comment becomes more prevalent, there would be a reduction in printing and mailing costs incurred by the board. In addition to the potential fiscal benefits, these changes also allow the board to increase the speed of notification and the amount of information readily available to interested parties, which will increase efficiency and may enhance public participation.

Businesses and entities affected. The proposed changes will affect individuals and organizations interested in the work of the Board for Barbers and Cosmetology. The approximately 56,700¹ barbers, cosmetologists, nail technicians, instructors, shops, salons, and schools, as well as their clients may have interest in the regulations.

Localities particularly affected. The proposed regulations potentially affect all localities in the Commonwealth.

Projected impact on employment. The proposed changes to this regulation are not anticipated to have a significant effect on employment.

Effects on the use and value of private property. The proposed changes to this regulation are not anticipated to have a significant effect on the use and value of private property.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The agency/board concurs with the economic impact analysis.

Summary:

The Board for Barbers and Cosmetology Public Participation Guidelines (PPGs) mandate public participation in the promulgation process of regulations. The agency will maintain a mailing list to notify persons and organizations of intended regulatory action. The agency will mail such documents or provide notification of how to obtain a copy electronically of a "Notice of Intended Regulatory Action," "Notice of Comment Period" and a notice that final regulations have been adopted. The PPGs outline the necessary procedures for being placed on or deleted from the mailing list. The Notice of Intended Regulatory Action will provide for a comment period of at least 30 days and will state whether a public hearing will be held. The PPGs give specific instances on when the agency must hold a comment period and when the agency must reevaluate the regulations. The PPGs establish the procedures to be taken when substantial changes have been made prior to final adoption of the regulations. The use of and input from advisory committees to formulate regulations are established in the PPGs. The PPGs specify what meetings

and notices will be published in The Virginia Register of Regulations.

CHAPTER 10.

PUBLIC PARTICIPATION GUIDELINES.

18 VAC 41-10-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context indicates otherwise:

"Administrative Process Act" means Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of Virginia.

"Agency" means any authority, instrumentality, officer, board, or other unit of state government empowered by the basic laws to make regulations or decide cases.

"Notification lists" means lists used by the board to notify persons pursuant to these rules. Such lists may include electronic mailing lists or regular mailing lists maintained by the board.

"Organization" means any one or more associations, advisory councils, committees, corporations, partnerships, governmental bodies or legal entities.

"Person" means one or more individuals.

18 VAC 41-10-20. Notification lists.

The agency will maintain lists of persons and organizations who will be mailed the following documents, or notification of how to obtain a copy of the documents electronically, as they become available:

- 1. Notice of Intended Regulatory Action to promulgate, amend or repeal regulations.*
- 2. Notice of Comment Period and public hearings.*
- 3. Notice that the final regulations have been adopted.*

Failure of a person or organization to receive the documents for any reason shall not affect the validity of any regulations otherwise properly adopted under the Administrative Process Act.

18 VAC 41-10-30. Placement on the mailing list; deletion.

Any person or organization wishing to be placed on a notification list may do so by electronic notification or by writing the agency. In addition, the agency, at its discretion, may add to the list any person, organization, or publication it believes will serve the purpose of responsible participation in the formation or promulgation of regulations. Persons or organizations on the list will be provided all information stated in 18 VAC 41-10-20. Individuals and organizations periodically may be requested to indicate their desire to continue to receive documents or be deleted from the list. When mail is returned as undeliverable, individuals and organizations will be deleted from the list. When electronic notifications are returned as undeliverable over more than one day, individuals and organizations will be deleted from the list.

¹ Source: Department of Professional and Occupational Regulation.

Proposed Regulations

18 VAC 41-10-40. Petition for rulemaking.

Any person may petition the agency to adopt or amend any regulations. Petitions for rulemaking shall be processed in accordance with § 2.2-4007 of the Code of Virginia.

18 VAC 41-10-50. Notice of intent.

At least 30 days prior to filing the Notice of Comment Period and proposed regulations as required by § 2.2-4007 of the Code of Virginia, the agency will publish a Notice of Intended Regulatory Action. This notice will provide at least a 30-day comment period and shall state whether the agency intends to hold a public hearing. The agency is required to hold a hearing on the proposed regulation upon request by (i) the Governor or (ii) 25 or more persons. Further, the notice shall describe the subject matter and intent of the planned regulation. Such notice shall be transmitted to the Registrar of Regulations for inclusion in The Virginia Register of Regulations.

18 VAC 41-10-60. Informational proceedings or public hearings for existing rules.

Within two years of the promulgation of a regulation, the agency shall evaluate it for effectiveness and continued need. The agency shall conduct an informal proceeding, which may take the form of a public hearing, to receive public comment on an existing regulation. Notice of such proceedings shall be transmitted to the Registrar for inclusion in The Virginia Register of Regulations. Such proceedings may be held separately or in conjunction with other informational proceedings.

18 VAC 41-10-70. Notice of formulation and adoption.

At any meeting of the agency or a subcommittee where it is anticipated the formation or adoption of a regulation will occur, the subject matter shall be transmitted to the Registrar for inclusion in The Virginia Register of Regulations.

If one or more changes have substantial impact on a regulation, then any person may petition the agency within 30 days from the publication of the final regulation to request an opportunity for oral or written submittals on the changes to the regulations. If the agency receives requests from at least 25 persons for an opportunity to make oral or written comment, then the agency shall suspend the regulatory process for 30 days to solicit additional public comment, unless the agency determines that the changes made are minor or inconsequential in their impact.

If the Governor finds that one or more changes with substantial impact have been made to proposed regulation, he may suspend the regulatory process for 30 days to require the agency to solicit further public comment on the changes to the regulation.

A draft of the agency's summary description of the public comment shall be sent by the agency to all public commenters on the proposed regulation at least five days before final adoption of the regulation.

18 VAC 41-10-80. Advisory committees.

The agency intends to appoint advisory committees as it deems necessary to provide adequate participation in the

formation, promulgation, adoption, and review of regulations. Such committees are particularly appropriate when other interested parties may possess specific expertise in the area of the proposed regulation.

When identifying potential advisory committee members, the agency may use the following:

1. Directories or organizations related to the profession,
2. Industry, professional and trade associations' mailing lists, or
3. Lists of persons who have previously participated in public proceedings concerning this or a related issue.

18 VAC 41-10-90. Applicability.

18 VAC 41-20-20, 18 VAC 41-20-30, 18 VAC 41-20-40, 18 VAC 41-20-60, and 18 VAC 41-20-70 shall apply to all regulations promulgated and adopted in accordance with §§ 2.2-4011 B and 2.2-4012 and §§ 2.2-4002, 2.2-4005, 2.2-4006, 2.2-4011, 2.2-4018, and 2.2-4025 of the Code of Virginia except those regulations promulgated in accordance with the Administrative Process Act.

VA.R. Doc. No. R02-240; Filed July 10, 2002; 11:46 a.m.

* * * * *

Title of Regulation: 18 VAC 41-20. Barbering and Cosmetology Regulations (adding 18 VAC 41-20-10 through 18 VAC 41-20-280).

Statutory Authority: § 54.1-201 of the Code of Virginia.

Public Hearing Date: September 10, 2002 - 9:30 a.m.

Public comments may be submitted until 5 p.m. on September 27, 2002.

(See Calendar of Events section for additional information)

Agency Contact: William H. Ferguson, II, Assistant Director, Board for Barbers and Cosmetology, 3600 W. Broad Street, Richmond, VA 23230, telephone (804) 367-8590, FAX (804) 367-6295 or e-mail barbercosmo@dpor.state.va.us.

Basis: The proposed regulatory action to promulgate regulations governing the licensure and practice of barbering and cosmetology for the newly combined Board for Barbers and Cosmetology is mandated by Chapter 726 of the 2000 Acts of Assembly.

Section 54.1-201 of the Code of Virginia describes each regulatory boards power and duty to promulgate regulations in accordance with the Administrative Process Act necessary to ensure continued competency, to prevent deceptive or misleading practices by practitioners and to effectively administer the regulatory system administered by the regulatory board.

The proposed regulatory action to adjust the fees is mandated by the following sections of the Code of Virginia. The board evaluates its current and projected financial position, and determines the type of fees and amounts to be established for each fee that will provide revenue sufficient to cover its expenses.

1. Section 54.1-113. (Callahan Act) Regulatory boards to adjust fees. Following the close of any biennium, when the account for any regulatory board within the Department of Professional and Occupational Regulation or the Department of Health Professions maintained under § 54.1-308 or § 54.1-2505 shows expenses allocated to it for the past biennium to be more than 10% greater or less than moneys collected on behalf of the board, it shall revise the fees levied by it for certification or licensure and renewal thereof so that the fees are sufficient but not excessive to cover expenses.

2. Section 54.1-201 describes each regulatory board's power and duty to levy and collect fees for the certification or licensure and renewal that are sufficient to cover all expenses for the administration and operation of the regulatory board and a proportionate share of the expenses of the department.

3. Section 54.1-304 describes the power and duty of the director to collect and account for all fees prescribed to be paid into each board and account for and deposit the moneys so collected into a special fund from which the expenses of the board, regulatory boards and the department shall be paid.

4. Section 54.1-308 provides for compensation of the director, employees, and board members to be paid out of the total funds collected. This section also requires the director to maintain a separate account for each board showing moneys collected on its behalf and expenses allocated to the board.

Purpose: The intent of the proposed regulatory action is to promulgate regulations governing the licensure and practice of barbering and cosmetology. These regulations are necessary to ensure competence and integrity of all licensees and to ensure that the health and sanitary standards and safety are adequate in shops, salons, schools, and other facilities where barbering and cosmetology are practiced.

Substance:

The proposed regulatory changes will promulgate regulations for the newly combined Board for Barbers and Cosmetology as directed by Chapter 726 of the 2000 Acts of Assembly and clarify and standardize requirements for licensure. All substantive changes to existing sections of the currently separate regulations are noted below.

1. 18 VAC 41-20-10. The definition of "direct supervision" is being added to the regulations to clarify the requirement of supervision when services are being performed by a temporary permit holder or registered apprentice.

2. 18 VAC 41-20-20 is being added to the regulations to clarify the eligibility requirements for applicants with a record of criminal convictions.

3. 18 VAC 55-22-30 clarifies and standardizes the requirements for license by endorsement for barbers, cosmetologists and nail technicians. The current regulatory sections that address license by endorsement for barbers, 18 VAC 40-20-120, and cosmetologists and nail technicians, 18 VAC 55-22-100, vary significantly.

4. 18 VAC 41-20-50 establishes that the educational credit shall be based on completed performances and that applicants trained in a Virginia state institution or the United States armed forces are eligible for examination. The current sections of regulation pertaining to exceptions to training requirements for barbers, 18 VAC 40-20-50, and cosmetology, 18 VAC 55-22-70, provided an arbitrary 50% educational credit for Virginia licensees with less than two years work experience when enrolling or transferring for training in either practice. In addition, the current regulations do not specify that applicants receiving training from a Virginia state institution or the United States armed forces are eligible for examination.

5. 18 VAC 41-20-60 D clarifies that the examination fees shall consist of the administrative expenses of the department ensuing from the board's examination procedures and contract charges and that the exam service contracts shall be established in compliance with the Virginia Public Procurement Act. This subsection also establishes that any examination fee shall not exceed a cost of \$225.00 to the candidate.

6. 18 VAC 41-20-90 extends the temporary work permit period from 30 to 45 days to allow sufficient time for posting examination scores and avoid interruption of employment and specifies that no applicant shall be issued more than one permit.

7. 18 VAC 41-20-100 clarifies and standardizes the requirements for instructor certifications for barbers, cosmetologists and nail technicians. The current regulatory sections that address requirements for instructor certification for barbers, 18 VAC 40-20-100, cosmetologists, 18 VAC 55-22-110, and nail technicians, 18 VAC 55-22-120, vary significantly.

8. 18 VAC 41-20-140 adjusts, combines, and standardizes the current sections of the regulation pertaining to fees for barbers, 18 VAC 40-20-20, 18 VAC 40-20-110 through 18 VAC 40-20-200, and cosmetologists and nail technicians, 18 VAC 55-22-160, 18 VAC 55-22-170, 18 VAC 55-22-270, 18 VAC 55-22-300, and 18 VAC 55-22-310.

9. 18 VAC 41-20-200 clarifies that the area where classroom instruction is given and the area where practical instruction and services are provided must be separate areas.

10. 18 VAC 41-20-270 amends, combines and clarifies the current sanitation requirements for barbers, 18 VAC 40-20-290, and cosmetologists and nail technicians, 18 VAC 55-22-340, to create detailed sanitation and safety standards for shops, salons, and schools. The new language in 18 VAC 41-20-270 D stipulates that compliance with these rules does not confer compliance with other requirements set forth by federal, state and local laws, codes, ordinances, and regulations as they apply to business operation, physical construction and maintenance, safety, and public health. 18 VAC 41-20-270 H stipulates that all licensee and temporary permit holders shall adhere to regulations and guidelines established by the Virginia Department of Health and the Occupational Safety and Health Compliance

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Division of the Virginia Department of Labor and Industry. 18 VAC 41-20-270 I establishes that all shops, salons, schools and facilities shall immediately report the results of any inspection by the Virginia Department of Health. 18 VAC 41-20-270 J stipulates that all shops, salons, schools and facilities shall maintain a self-inspection form on file to be updated annually and maintained for 5 years to be reviewed at the board's discretion.

Issues: The proposed regulatory action is an advantage to the public in that it will provide clear and effective regulations to ensure competency and integrity and prevent deceptive or misleading practices by practitioners of barbering and cosmetology. The new provision to extend the temporary permit from 30 to 45 days is an advantage to regulants and the revised sanitation and safety standards are to the advantage of the public. The new provision pertaining to licensure by endorsement clarifies and standardizes the requirements for applicants to obtain a license in Virginia based on a current license held in any other state or jurisdiction of the United States. There are no disadvantages to the public or the Commonwealth with regards to the combining of the regulations governing the licensure and practice of barbering and cosmetology.

The proposed fee adjustment is an advantage to the public in that the Board for Barbers and Cosmetology, within the Department of Professional and Occupational Regulation, is fulfilling its statutory requirement in that it must operate within the Code provisions of the Callahan Act (§ 54.1-113), and the general provisions of § 54.1-201. The proposed fee adjustment in the proposed regulatory action is an advantage to the public in that the department is fulfilling its statutory requirement to levy and collect fees for certification or licensure and renewal that are sufficient to cover all expenses for the administration and operation of the regulatory board and to comply with the Callahan Act in order to administer this regulatory program in a cost effective manner. In that the fees apply to the two-year period for which the license is valid, and overall will remain a very small portion of the costs to work, there are no disadvantages to the public or the Commonwealth.

Department of Planning and Budget's Economic Impact

Analysis: The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007 G of the Administrative Process Act and Executive Order Number 25 (98). Section 2.2-4007 G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the proposed regulation. The newly combined Board for Barbers and Cosmetology (board) proposes to promulgate the Board for Barbers and Cosmetology Rules and Regulations which replace the separate Board for Barbers

and the Board for Cosmetology Regulations. The proposed regulations are different from the current regulations in several ways, including 1) fee changes, 2) increasing the length of the initial barber's license, 3) significantly shortening the period within which a barber can be late paying their renewal fee without needing to apply for reinstatement and pay a reinstatement fee, 4) requiring that barber schools clearly post notice to the public that paid services are performed by students, 5) reduction in paperwork requirement for barber schools, 6) more highly proscribed required sanitation methodology, and 7) requiring that cosmetology and nail schools maintain separate classroom and clinic areas.

Estimated economic impact. Section 54.1-113 of the Code of Virginia states that

"Following the close of any biennium, when the account for any regulatory board within the Department of Professional and Occupational Regulation or the Department of Health Professions maintained under § 54.1-308 or § 54.1-2505 shows expenses allocated to it for the past biennium to be more than ten percent greater or less than moneys collected on behalf of the board, it shall revise the fees levied by it for certification or licensure and renewal thereof so that the fees are sufficient but not excessive to cover expenses."

The Department of Professional and Occupational Regulation (department) reports that the board's direct and administrative support costs for the 1998-2000 biennium were more than \$2.5 million, with revenue collections of \$1.98 million. Thus, expenses exceeded revenues by 26 percent. Since 26 percent is well in excess of ten percent, the board is required to raise net fees such that the revenue it receives is sufficient but not excessive to cover its expenses. The department projects that during the 2000-2002 biennium total expenditures will be \$2.8 million, with \$2.0 million in revenue collections. By the close of the current biennium, the department expects to have an approximate \$4,000 cash balance, and without fee increases expects to incur a deficit in early fiscal year 2003. In order to avoid negative cash balances, the board proposes to raise net fees. The table below compares some of the current fees to fees in the proposed regulations.

FEE TYPE	PROPOSED AMOUNT	CURRENT AMOUNT
<u>Barber:</u>		
Application	\$55	\$60
License by Endorsement	\$55	\$130
Renewal	\$55	\$25
<u>Cosmetologist:</u>		
Application	\$55	\$0
License by Endorsement	\$55	\$30
Renewal	\$55	\$25
<u>Nail Technicians</u>		
Application	\$55	\$0
License by Endorsement	\$55	\$30
Renewal	\$55	\$25

Since, according to the department, the cost of regulating barbers, cosmetologists, and nail technicians is not appreciatively different for each profession, the proposed \$55 two-year licensure fees for all three professions is equitable and appropriate.

For barbers, the \$55 fees for applications and licensure by endorsement represent lower costs of entry into the profession. For cosmetologists and nail technicians, the \$55 fees for applications and licensure by endorsement represent higher costs of entry into their respective professions. Though these fee changes create a net financial gain for new barbers in Virginia, and a net financial loss for new cosmetologists and nail technicians in the Commonwealth, the fee amounts are small enough that for most individuals the changes are unlikely to affect decisions on whether or not to enter the profession. The proposed \$55 two-year license renewal fees represent a \$15 per year cost increase for all three professions. Again, though these fee changes create a net financial loss for experienced barbers, cosmetologists, and nail technicians, for most individuals the changes are unlikely to affect decisions on whether or not to continue in the profession.

The board proposes to have barber licenses expire two years from the last day of the month in which they were issued. Currently, barber licenses expire on March 31 of each odd-numbered year. The proposed change will effectively lengthen the time of initial barber licenses from the current one to 24 months (date of receipt to March 31 of each odd-numbered year) to 24 months in all cases. This will result in a small wealth transfer from the department to newly licensed barbers since the barbers will receive more months of licensure for their initial licensure fees.

Under the current regulations, any barber who fails to renew their license within one month after the license expires is required to pay a \$25 late renewal fee. If the barber fails to renew his license within six months after the expiration date of his license, he must apply for reinstatement of the license by submitting to the department a reinstatement application and \$50 fee. The proposed regulations eliminate the late fee period and require that any barber who fails to renew their license within 30 days after the license expires apply for reinstatement of the license by submitting to the department a reinstatement application and \$55 fee. In both the current and proposed regulations a barber who is unlicensed for more than two years must apply as a new applicant. The elimination of the late renewal period may encourage more barbers to pay their license fees within 30 days of the expiration of their license. On the other hand, for those individuals who fail to pay within 30 days of the expiration of their license, the incentive to pay within six months after the expiration date of the license has been eliminated. Thus, such an individual should logically wait until almost two years have elapsed before paying any fees; paying fees prior to then would forego bank account interest or other uses of the funds in the mean time.

The proposal to require that barber schools clearly post notice to the public that paid services are performed by students will be beneficial for the public. The physical cost of posting a sign, perhaps taping a piece of paper in plain view, will be

minimal for barber schools. The public will benefit by reducing the likelihood that misunderstandings occur concerning the experience of their barber.

The current regulations require that upon completion of 25%, 50% and 75% of hours completed by a student in a licensed barber school, the school shall provide an individualized written report to the student of hours completed. The proposed regulations eliminate this paperwork requirement. Since presumably students will know ahead of time the length of their school's program, the current reporting requirement appears to have little value; thus, eliminating the administrative expense for schools will provide a net benefit.

The proposed regulations proscribe mandated sanitary procedures in great detail. The proscribed sanitary procedures are costly, and may or may not have more than a marginal impact on the spread of disease versus less highly proscribed sanitary requirements. The department has produced no evidence to show that these procedures would produce significantly lower health risks than less highly proscribed sanitary requirements. For example, proposed regulations state that "Combs, brushes, towels, razors, clippers, scissors, nippers, and other instruments shall be cleaned and sanitized after every use" According to one cosmetology salon owner, each styling brush at his salon is cleaned once a day.¹ The brushes are only used on freshly washed hair. He believes the brushes remain entirely sanitary. Although it is possible that washing the brushes between every customer may reduce the risk of contagion of hair-borne disease between customers by some small degree, the department has not provided evidence of any reduction in risk. The costs of compliance are not insignificant. According to the interviewed cosmetology salon owner, several new styling brushes would need to be purchased for each stylist, at a cost of \$15 to \$26 wholesale or \$35 to \$50 retail, in order to comply with the new brush cleaning provision. Thus, it is not clear whether the undetermined benefits of the mandated sanitary procedures exceed their non-negligible costs.

Perhaps rather than mandate that all barbershops, salons, and schools follow proscribed sanitation procedures, it would be beneficial to instead have an optional state certification. Owners of barbershops, salons, and schools who wish to comply with a set of enhanced sanitation procedures could advertise that they have earned the state sanitary procedure certification. Owners of barbershops, salons, and schools who believe that the costs of compliance exceed the value of the certification could choose not to pursue obtaining the certification. Potential clients could make their own decisions as to which barbershops, salons, and schools to patronize.

The proposed requirement that cosmetology and nail schools maintain separate classroom and clinic areas could potentially be very costly for cosmetology and nail schools. The proposed regulations do not specify what is meant by separate areas. If separate areas means separate rooms, then new walls may need to be constructed or perhaps new space would need to be built or rented. No evidence is provided to justify the need

¹ The interviewed cosmetology salon owner may or may not be a typical representative of his profession, but he believes that his procedures are common among good salons.

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for such potential large additional expenses. The department stated via telephone that where classroom and clinic areas are one and the same space, it is not the board's intent to require additional construction or rental of space. But the proposed language does not make that clear. Thus, a future board could choose to require additional construction or rental of space.

Businesses and entities affected. The proposed regulations affect approximately 56,700² barbers, cosmetologists, nail technicians, instructors, shops, salons, and schools, as well as their clients.

Localities particularly affected. The proposed regulations affect all Virginia localities.

Projected impact on employment. Higher licensing fees may very modestly reduce the number of working cosmetologists and nail technicians.

Effects on the use and value of private property. Higher fees, as well as the costs associated with the more highly proscribed sanitary procedures, may reduce the value of barbershops, salons, and schools. The reduced reporting requirement for barber schools will modestly reduce their costs and will proportionately add to their value.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: There are three subjects to which the agency would like to respond:

1. DPB states that cosmetology and nail schools maintaining separate classroom and clinic areas could potentially be very costly for cosmetology nail schools and that the proposed regulations do not specify what is meant by "separate areas," leaving the possibility of a future burden on schools.

DPB does not include that this requirement also applies to barber schools. This requirement is not a new requirement. The Board for Barbers Regulations (1999), Part V. Barber Schools. 18 VAC 40-20-220 (1) state that "[a school of barbering] has a classroom and clinic area"; and the Board for Cosmetology Regulations (1999), Part III. Cosmetology Schools. 18 VAC 55-22-190 (7) states that a cosmetology or nail technician school shall "[m]aintain separate classroom and clinic areas." There has been no indication that the industry has had any difficulty understanding what "separate areas" means.

Adding additional language for specificity purposes may limit the flexibility of schools to comply with the regulation and may be more burdensome.

However, additional language for clarification that allows latitude for compliance will be considered at adoption of final regulation.

2. To serve as an example pertaining to sanitary procedures, DPB states that the proposed regulations state that "Combs, brushes, towels, razors, clippers, scissors, nippers, and other instruments shall be cleaned and sanitized after every use..."

This is not a new regulation. The Board for Cosmetology Regulations (1999), Part V. Standards of Practice. 18 VAC 55-22-340 1 a. Cleanliness. Combs, brushes, towels, razors, clippers, scissors, nippers, and other instruments shall be cleaned and sanitized after every use and stored free from contamination. Subdivision 2 c (Operation and service) continues: "Brushes and combs shall be washed in soap and water and sanitized after each use." Licensees not adhering to these regulations were in violation.

3. DPB states that rather than mandate that all barbershops, salons, and schools follow proscribed sanitation procedures, it would be beneficial to instead have an optional state certification.

The statute requires full licensure. There is no statutory provision to issue additional certification regarding sanitation procedures.

Sanitation procedures are developed to protect the health, safety, and welfare of the citizens of the Commonwealth. The responsibility to protect the health, safety, and welfare of the citizens of the Commonwealth is not optional. To implement an optional state certification to ensure protection and fulfill responsibility is not in the best interest of the citizens of the Commonwealth.

Summary:

The proposed action promulgates regulations for the newly combined Board for Barbers and Cosmetology as directed by Chapter 726 of the 2000 Acts of Assembly. The regulations clarify and standardize requirements for licensure; provide standards that ensure that health, sanitation and safety are adequate in facilities where barbering and cosmetology are practiced; and extend the temporary work permit period from 30 to 45 days to allow sufficient time for posting examination scores and to avoid interruption of employment. The proposed regulations also adjust licensing fees for regulants of the Board for Barbers and Cosmetology.

CHAPTER 20.

BARBERING AND COSMETOLOGY REGULATIONS.

PART I.

GENERAL.

18 VAC 41-20-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise. All terms defined in Chapter 7 (§ 54.1-700 et seq.) of Title 54.1 of the Code of Virginia are incorporated in this chapter.

"Affidavit" means a written statement of facts, made voluntarily and confirmed by the oath or affirmation of the party making it, taken before a notary or other person having the authority to administer such oath or affirmation.

"Direct supervision" means that a Virginia licensed barber, cosmetologist, or nail technician shall be present in the barbershop, cosmetology salon, or nail technician salon at all times when services are being performed by a temporary permit holder or registered apprentice.

² Source: Department of Professional and Occupational Regulation.

"Endorsement" means a method of obtaining a license by a person who is currently licensed in another state.

"Licensee" means any person, partnership, association, limited liability company, or corporation holding a license issued by the Board for Barbers and Cosmetology, as defined in § 54.1-700 of the Code of Virginia.

"Reciprocity" means a conditional agreement between two or more states that will recognize one another's regulations and laws for equal privileges for mutual benefit.

"Reinstatement" means having a license or certificate restored to effectiveness after the expiration date has passed.

"Renewal" means continuing the effectiveness of a license or certificate for another period of time.

"Virginia state institution" for the purposes of these regulations means any institution approved by the Virginia Department of Education or the Virginia Department of Corrections.

PART II. ENTRY.

18 VAC 41-20-20. General requirements for a barber, cosmetologist, or nail technician license.

A. In order to receive a license as a barber, cosmetologist, or nail technician, an applicant must meet the following qualifications:

1. The applicant shall be in good standing as a licensed barber, cosmetologist, or nail technician in every jurisdiction where licensed. The applicant shall disclose to the board at the time of application for licensure any disciplinary action taken in another jurisdiction in connection with the applicant's practice as a barber, cosmetologist, or nail technician. The applicant shall disclose to the board at the time of application for licensure whether he has been previously licensed in Virginia as a barber, cosmetologist, or nail technician.

2. The applicant shall disclose his physical address. A post office box is not acceptable.

3. The applicant shall sign, as part of the application, an affidavit certifying that the applicant has read and understands the Virginia barber and cosmetology license laws and the regulations of the board.

4. In accordance with § 54.1-204 of the Code of Virginia, the applicant shall not have been convicted in any jurisdiction of a misdemeanor or felony which directly relates to the profession of barbering, cosmetology, or nail care. The board shall have the authority to determine, based upon all the information available, including the applicant's record of prior convictions, if the applicant is unfit or unsuited to engage in the profession of barbering, cosmetology, or nail care. The board will decide each case by taking into account the totality of the circumstances. Any plea of nolo contendere shall be considered a conviction for the purposes of this section. The applicant shall provide a certified copy of a final order, decree or case decision by a court or regulatory agency with the lawful authority to issue such order, decree or case decision, and such copy shall be admissible as prima facie evidence of such conviction. This

record shall be forwarded by the applicant to the board within 10 days after all appeal rights have expired.

5. The applicant shall provide evidence satisfactory to the board that the applicant has passed the board approved examination, administered either by the board or by independent examiners.

B. Eligibility to sit for board-approved examination.

1. **Training in the Commonwealth of Virginia.** Any person completing an approved barber, cosmetology, or nail technician training program in a Virginia licensed barber, cosmetology, or nail technician school, respectively, or a Virginia public school's barber, cosmetology, or nail technician program approved by the State Department of Education shall be eligible for examination.

2. **Training outside of the Commonwealth of Virginia, but within the United States and its territories.**

a. Any person completing a barber or cosmetology training program that is substantially equivalent to the Virginia program but is outside of the Commonwealth of Virginia must submit to the board documentation of the successful completion of 1,500 hours of training to be eligible for examination. If less than 1,500 hours of barber or cosmetology training was completed, an applicant must submit a certificate, diploma or other documentation acceptable to the board verifying the completion of a substantially equivalent barber or cosmetology course and documentation of six months of barber or cosmetology work experience in order to be eligible for examination.

b. Any person completing a nail technician training program that is substantially equivalent to the Virginia program but is outside of the Commonwealth of Virginia must submit to the board documentation of the successful completion of 150 hours of training to be eligible for examination. If less than 150 hours of nail technician training was completed, an applicant must submit a certificate, diploma or other documentation acceptable to the board verifying the completion of a substantially equivalent nail technician course and documentation of six months of nail technician work experience in order to be eligible for the nail technician examination.

18 VAC 41-20-30. License by endorsement.

Upon proper application to the board, any person currently licensed to practice as a barber, cosmetologist, or nail technician who is a barber, cosmetology or nail technician instructor in any other state or jurisdiction of the United States and who has completed both a training program and a written and practical examination that is substantially equivalent to that required by these regulations, may be issued a barber, cosmetology, or nail technician license or a barber, cosmetology or nail technician instructor certificate, respectively, without an examination. The applicant must also meet the requirements set forth in 18 VAC 41-20-20.

18 VAC 41-20-40. Apprenticeship training.

A. Licensed barbers, cosmetologists, and nail technicians who train apprentices shall comply with the standards for

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apprenticeship training established by the Division of Apprenticeship Training of the Virginia Department of Labor and Industry and the Virginia Board for Barbers and Cosmetology. Owners of barbershops, cosmetology salons, and nail salons who train apprentices shall comply with the standards for apprenticeship training established by the Division of Apprenticeship Training of the Virginia Department of Labor and Industry.

B. Any person completing the Virginia apprenticeship program in barbering, cosmetology, or nail care shall be eligible for examination.

18 VAC 41-20-50. Exceptions to training requirements.

A. Virginia licensed cosmetologists with a minimum of two years of work experience shall be eligible for the barber examination; likewise, a Virginia licensed barber with a minimum of two years of work experience shall be eligible for the cosmetology examination.

B. Virginia licensed barbers with less than two years of work experience and Virginia barber students enrolling in a Virginia cosmetology training school shall be given educational credit for the training received for the performances completed at a barber school; likewise, licensed Virginia cosmetologists with less than two years of work experience and Virginia cosmetology students enrolling in a Virginia barber training school shall be given educational credit for the training received for the performances completed at a cosmetology school.

C. Any barber, cosmetologist, or nail technician applicant having been trained as a barber, cosmetologist, or nail technician in any Virginia state institution shall be eligible for the respective examination.

D. Any barber or cosmetologist applicant having a minimum of two years experience in barbering or cosmetology in the United States armed forces and having provided documentation satisfactory to the board of that experience shall be eligible for the respective examination.

18 VAC 41-20-60. Examination requirements and fees.

A. Applicants for initial licensure shall pass both a practical and written examination approved by the board. The examinations may be administered by the board or by a designated testing service.

B. Any applicant who passes one part of the examination shall not be required to take that part again provided both parts are passed within one year of the initial examination date.

C. Any candidate failing to appear as scheduled for examination shall forfeit the examination fee.

D. The fee for examination or reexamination is subject to contracted charges to the board by an outside vendor. These contracts are competitively negotiated and bargained for in compliance with the Virginia Public Procurement Act (§ 11-35 et seq. of the Code of Virginia). Fees may be adjusted and charged to the candidate in accordance with these contracts. The fee shall not exceed \$225 per candidate.

18 VAC 41-20-70. Reexamination requirements.

Any applicant who does not pass a reexamination within one year of the initial examination date shall be required to submit a new application and examination fee.

18 VAC 41-20-80. Examination administration.

A. The examinations shall be administered by the board or the designated testing service. The practical examination shall be supervised by a chief examiner.

B. Every barber, cosmetology, or nail technician examiner shall hold a current Virginia license in their respective professions, have three or more years of active experience as a licensed professional and be currently practicing in that profession. Examiners shall attend training workshops sponsored by the board or by a testing service acting on behalf of the board.

C. No certified barber, cosmetology, or nail technician instructor who is currently teaching, or is a school owner, or is an apprentice sponsor shall be an examiner.

D. Each barber, cosmetology, and nail technician chief examiner shall hold a current Virginia license in his respective profession, have five or more years of active experience in that profession, have three years of active experience as an examiner, and be currently practicing in his respective profession. Chief examiners shall attend training workshops sponsored by the board or by a testing service acting on behalf of the board.

E. The applicant shall follow all procedures established by the board with regard to conduct at the examination. Such procedures shall include any written instructions communicated prior to the examination date and any instructions communicated at the site, either written or oral, on the date of the examination. Failure to comply with all procedures established by the board and the testing service with regard to conduct at the examination may be grounds for denial of application.

18 VAC 41-20-90. Barber, cosmetology, and nail technician temporary permits.

A. A temporary permit to work under the supervision of a currently licensed barber, cosmetologist or nail technician may be issued only to applicants for initial licensure that the board finds eligible for examination. There shall be no fee for a temporary permit.

B. The temporary permit shall remain in force for 45 days following the examination date. The examination date shall be the first test date after the applicant has successfully submitted an application to the board that an examination is offered to the applicant by the board.

C. Any person continuing to practice barbering, cosmetology, or nail care services after a temporary permit has expired may be prosecuted and fined by the Commonwealth under §§ 54.1-111 A 1 and 54.1-202 of the Code of Virginia.

D. No applicant for examination shall be issued more than one temporary permit.

18 VAC 41-20-100. General requirements for a barber instructor certificate, cosmetology instructor certificate or nail technician instructor certificate.

A. Upon filing an application with the Board for Barbers and Cosmetology, any person meeting the qualifications set forth in this section shall be eligible for a barber, cosmetology, or nail technician instructor certificate, if the person:

1. Holds a current Virginia barber, cosmetology, or nail technician license, respectively; and
2. Passes a course in teaching techniques at the post-secondary educational level; or
3. Completes an instructor training course approved by the Virginia Board for Barbers and Cosmetology under the supervision of a certified barber, cosmetologist, or nail technician instructor in a barber, cosmetology, or nail technician school, respectively; or
4. Passes an examination in barber, cosmetology or nail technician instruction respectively, administered by the board or by a testing service acting on behalf of the board.

B. Applicants passing the examination for a barber, cosmetology or nail technician instructor certificate shall be required to maintain a barber, cosmetology or nail technician license.

18 VAC 41-20-110. Student instructor temporary permit.

A licensed barber, cosmetologist, or nail technician may be granted a student instructor temporary permit to function under the direct supervision of a barber instructor, cosmetology instructor, or nail technician instructor respectively. A licensed nail technician may also be granted a student instructor permit to function under the direct supervision of a cosmetology instructor. The student instructor temporary permit shall remain in force for not more than 12 months after the date of issuance and shall be nontransferable and nonrenewable. Failure to maintain a barber, cosmetology, or nail technician license shall disqualify an individual from holding a student instructor temporary permit.

18 VAC 41-20-120. Shop or salon license.

A. Any individual wishing to operate a barbershop, cosmetology or nail salon shall obtain a shop or salon license in compliance with § 54.1-704.1 of the Code of Virginia.

B. A barbershop, cosmetology or nail salon license shall not be transferable and shall bear the same name and address of the business. Any changes in the name, address, or ownership of the shop or salon shall be reported to the board in writing within 30 days of such changes. New owners shall be responsible for reporting such changes in writing to the board within 30 days of the changes.

C. In the event of a closing of a barbershop or cosmetology or nail salon, the board must be notified by the owners in writing within 30 days of the closing, and the license must be returned by the owners to the board.

18 VAC 41-20-130. School license.

A. Any individual wishing to operate a barber, cosmetology, or nail technician school shall obtain a school license in compliance with § 54.1-704.2 of the Code of Virginia. All instruction and training of barbers, cosmetologists, or nail technicians shall be conducted under the direct supervision of a licensed barber, cosmetologist, or nail technician, respectively.

B. A barber, cosmetology, or nail technician school license shall not be transferable and shall bear the same name and address as the school. Any changes in the name or address of the school shall be reported to the board in writing within 30 days of such change. The name of the school must indicate that it is an educational institution. All signs, or other advertisements, must reflect the name as indicated on the license issued by the board and contain language indicating it is an educational institution.

C. In the event of a change of ownership of a school, the new owners shall be responsible for reporting such changes in writing to the board within 30 days of the changes.

D. In the event of a school closing, the board must be notified by the owners in writing within 30 days of the closing, and the license must be returned.

PART III. FEES.

18 VAC 41-20-140. Fees.

The following fees apply:

FEE TYPE	AMOUNT DUE	WHEN DUE
Individuals:		
Application	\$55	With application
License by Endorsement	\$55	With application
Renewal:		
Barber	\$55	With renewal card prior to expiration date
Cosmetologist	\$55	With renewal card prior to expiration date
Nail technician	\$55	With renewal card prior to expiration date
Reinstatement	\$55	With reinstatement application
Instructors:		
Application	\$60	With application
License by Endorsement	\$60	With application
Renewal	\$60	With renewal card prior to expiration date
Reinstatement	\$60	With reinstatement application
Facilities:		
Application	\$90	With application

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Renewal	\$90	With renewal card prior to expiration date
Reinstatement	\$90	With reinstatement application
Schools:		
Application	\$120	With application
Add Program	\$60	With application
Renewal	\$120	With reinstatement application
Reinstatement	\$120	With renewal card prior to expiration date

18 VAC 41-20-150. Refunds.

All fees are nonrefundable and shall not be prorated.

PART IV. RENEWAL/REINSTATEMENT.

18 VAC 41-20-160. License renewal required.

A. All barber licenses, cosmetology licenses, nail technician licenses, barbershop licenses, cosmetology salon licenses, and nail technician salon licenses shall expire two years from the last day of the month in which they were issued.

B. All barber instructor certificates, cosmetology instructor certificates, and nail technician instructor certificates shall expire on the same date as the certificate holder's license expiration date.

C. All school licenses shall expire on December 31 of each even-numbered year.

18 VAC 41-20-170. Notice of renewal.

The Department of Professional and Occupational Regulation will mail a renewal notice to the licensee or certificate holder outlining the procedures for renewal. Failure to receive this notice, however, shall not relieve the licensee or certificate holder of the obligation to renew. If the licensee or certificate holder fails to receive the renewal notice, a copy of the old license or certificate may be submitted as evidence of intent to renew, along with the required fee.

18 VAC 41-20-180. Failure to renew.

A. When a licensed or certified individual or entity fails to renew its license or certificate within 30 days following its expiration date, the licensee or certificate holder shall apply for reinstatement of the license or certificate by submitting to the Department of Professional and Occupational Regulation a reinstatement application and renewal fee and reinstatement fee.

B. When a barber, cosmetologist, or nail technician fails to renew his license within two years following the expiration date, reinstatement is no longer possible. To resume practice, the former licensee shall apply for licensure as a new applicant, shall meet all current application requirements, shall pass the board's current examination and shall receive a new license. Individuals applying for licensure under this section shall be eligible to apply for a temporary permit from the board under 18 VAC 41-20-90.

C. When a barber instructor, cosmetology instructor, or nail technician instructor fails to renew his certificate within two years following the expiration date, reinstatement is no longer possible. To resume practice, the former certificate holder shall apply as a new applicant, meet all current application requirements, and receive a new license or temporary permit from the board. Upon receiving the new license, the individual may apply for a new instructor's certificate.

D. The application for reinstatement for a school shall provide the reasons for failing to renew prior to the expiration date, and a notarized statement that all students currently enrolled or seeking to enroll at the school have been notified in writing that the school's license has expired. All of these materials shall be called the application package. Reinstatement will be considered by the board if the school consents to and satisfactorily passes an inspection of the school and if the school's records are maintained in accordance with 18 VAC 41-20-250 and 18 VAC 41-20-260 by the Department of Professional and Occupational Regulation. Pursuant to 18 VAC 41-20-190, upon receipt of the reinstatement fee, application package, and inspection results, the board may reinstate the school's license or require requalification or both. If the reinstatement application package and reinstatement fee are not received by the board within six months following the expiration date of the school's license, the board will notify the testing service that prospective graduates of the unlicensed school are not acceptable candidates for the examination. Such notification will be sent to the school and must be displayed in a conspicuous manner by the school in an area that is accessible to the public. No student shall be disqualified from taking the examination because the school was not licensed for a portion of the time the student attended if the school license is reinstated by the board.

E. The date a renewal fee is received by the Department of Professional and Occupational Regulation, or its agent, will be used to determine whether a penalty fee or the requirement for reinstatement of a license or certificate is applicable.

F. When a license or certificate is reinstated, the licensee or certificate holder shall be assigned an expiration date two years from the date of the last day of the month of reinstatement except for school licenses that shall expire on December 31 of each even-numbered year.

G. A licensee or certificate holder who reinstates his license or certificate shall be regarded as having been continuously licensed or certified without interruption. Therefore, a licensee or certificate holder shall be subject to the authority of the board for activities performed prior to reinstatement.

H. A licensee or certificate holder who fails to reinstate his license or certificate shall be regarded as unlicensed or uncertified from the expiration date of the license or certificate forward. Nothing in these regulations shall divest the board of its authority to discipline a licensee or certificate holder for a violation of the law or regulations during the period of time for which the individual was licensed or certified.

PART V.
BARBER AND COSMETOLOGY SCHOOLS.

18 VAC 41-20-190. Applicants for state approval.

A. Any person, firm, or corporation desiring to operate a barber, cosmetology, or nail school shall submit an application to the board at least 60 days prior to the date for which approval is sought.

B. Barber schools, nail schools, or cosmetology schools under the Virginia Department of Education shall be exempted from licensure requirements.

18 VAC 41-20-200. General requirements.

A barber, cosmetology, or nail school shall:

1. Hold a school license for each and every location.
2. Hold a salon license if the school receives compensation for services provided in its clinic.
3. Employ a staff of licensed and certified barber, cosmetology, or nail technician instructors.
4. Develop individuals for entry level competency in barbering, cosmetology, or nail care.
5. Submit its curricula for board approval.
 - a. Barber curricula shall be based on a minimum of 1,500 clock hours and shall include performances in accordance with 18 VAC 41-20-220.
 - b. Cosmetology curricula shall be based on a minimum of 1,500 clock hours and shall include performances in accordance with 18 VAC 41-20-220.
 - c. Nail technician curricula shall be based on a minimum of 150 clock hours and shall include performances in accordance with 18 VAC 41-20-220.
6. Inform the public that all services are performed by students if the school receives compensation for services provided in its clinic by posting a notice in the reception area of the shop or salon in plain view of the public.
7. Classroom instruction must be conducted in an area separate from the clinic area where practical instruction is conducted and services are provided.

18 VAC 41-20-210. Curriculum requirements.

A. Each barber school shall submit with its application a curriculum including, but not limited to, a course syllabus, a detailed course content outline, a sample of five lesson plans, a sample of evaluation methods to be used, and a breakdown of hours and performances for all courses to be taught that will lead to licensure. The outline for barbering shall include, but not be limited to, the following:

1. School policies;
2. State law, regulations and professional ethics;
3. Business and shop management;
4. Client consultation;
5. Personal hygiene;

6. Cutting the hair with a razor, clippers, shears;
7. Tapering the hair;
8. Thinning the hair;
9. Shampooing the hair;
10. Styling the hair with a hand hair dryer;
11. Thermal waving;
12. Permanent waving with chemicals;
13. Shaving;
14. Trimming a moustache or beard;
15. Applying hair color;
16. Lightening or toning the hair;
17. Analyzing skin or scalp conditions;
18. Giving scalp treatments;
19. Giving facial massage or treatment;
20. Sanitizing and maintaining implements and equipment; and
21. Honing and stropping a razor.

B. Each cosmetology school shall submit with its application a curriculum including, but not limited to, a course syllabus, a detailed course content outline, a sample of five lesson plans, a sample of evaluation methods to be used, and a breakdown of hours and performances for all courses to be taught that will lead to licensure. The outline for cosmetology shall include, but not be limited to, the following:

1. Orientation:
 - a. School policies;
 - b. State law, regulations, and professional ethics;
 - c. Personal hygiene; and
 - d. Bacteriology, sterilization, and sanitation.
2. Manicuring and pedicuring:
 - a. Anatomy and physiology;
 - b. Diseases and disorders;
 - c. Procedures to include both natural and artificial application; and
 - d. Sterilization.
3. Shampooing and rinsing:
 - a. Fundamentals;
 - b. Safety rules;
 - c. Procedures; and
 - d. Chemistry, anatomy, and physiology.
4. Scalp treatments:
 - a. Analysis;

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b. Disorders and diseases;

c. Manipulations; and

d. Treatments.

5. Hair styling:

a. Anatomy and facial shapes;

b. Finger waving, molding and pin curling;

c. Roller curling, combing, and brushing; and

d. Heat curling, waving, braiding and pressing.

6. Hair cutting:

a. Anatomy and physiology;

b. Fundamentals, materials, and equipment;

c. Procedures; and

d. Safety practices.

7. Permanent waving-chemical relaxing:

a. Analysis;

b. Supplies and equipment;

c. Procedures and practical application;

d. Chemistry;

e. Recordkeeping; and

f. Safety.

8. Hair coloring and bleaching:

a. Analysis and basic color theory;

b. Supplies and equipment;

c. Procedures and practical application;

d. Chemistry and classifications;

e. Recordkeeping; and

f. Safety.

9. Skin care and make-up:

a. Analysis;

b. Anatomy;

c. Health, safety, and sanitary rules;

d. Procedures;

e. Chemistry and light therapy;

f. Temporary removal of hair; and

g. Lash and brow tinting.

10. Wigs, hair pieces, and related theory:

a. Sanitation and sterilization;

b. Types; and

c. Procedures.

11. Salon management:

a. Business ethics; and

b. Care of equipment.

18 VAC 41-20-220. Hours of instruction and performances.

A. Curriculum and performance requirements shall be offered over a minimum of 1,500 clock hours for barbering and cosmetology, and 150 clock hours for nail care.

B. The curriculum requirements for barbering must include the following minimum performances:

Hair and scalp treatments	10
Hair styling	320
Tinting	15
Bleaching and frosting	10
Temporary rinses	10
Semi-permanent color	10
Cold permanent waving or chemical relaxing	25
Hair shaping	50
Wig care, styling, placing on model	5
Finger waving and thermal waving	30
Facials and waxings	5
TOTAL	490

C. The curriculum requirements for cosmetology must include the following minimum performances:

Hair and scalp treatments	10
Hair styling	320
Tinting	15
Bleaching and frosting	10
Temporary rinses	10
Semi-permanent color	10
Cold permanent waving or chemical relaxing	25
Hair shaping	50
Wig care, styling, placing on model	5
Finger waving and thermal waving	30
Manicures/pedicures	15
Facials and waxings	5
Sculptured nails/nail tips/wraps	20
TOTAL	525

D. The curriculum requirements for nail care must include the following minimum performances:

Manicures	30
Pedicures	15
Individual sculptured nails/nail tips	200
Individual removals	10
Individual nail wraps	20
TOTAL	275

18 VAC 41-20-230. School identification.

Each barber, cosmetology, or nail care school approved by the board shall identify itself to the public as a teaching institution.

18 VAC 41-20-240. Records.

Schools are required to keep upon graduation, termination or withdrawal, written records of hours and performances

showing what instruction a student has received for a period of five years after the student terminates or completes the curriculum of the school. These records shall be available for inspection by the department. All records must be kept on the premises of each school.

18 VAC 41-20-250. Hours reported.

Within 30 days of the closing of a licensed barber school, cosmetology school, or nail care school, for any reason, the school shall provide a written report to the board on performances and hours of each of its students who have not completed the program.

PART VI. STANDARDS OF PRACTICE.

18 VAC 41-20-260. Display of license.

A. Each shop owner, salon owner or school owner shall ensure that all current licenses, certificates or permits issued by the board shall be displayed in the reception area of the shop, salon or school in plain view of the public. Duplicate licenses, certificates or permits shall be posted in a like manner in every shop, salon or school location where the regulant provides services.

B. Each shop owner, salon owner or school owner shall ensure that no employee, licensee, student or apprentice performs any service beyond the scope of practice for the applicable license.

C. All licensees, certificate holders and permit holders shall operate under the name in which the license, certificate, or permit is issued.

D. Unless also licensed as a cosmetologist, a barber is required to hold a separate nail technician license if he will be performing manicures or pedicures or applying artificial nails.

E. All apprenticeship cards issued by the Department of Labor and Industry (DOLI) shall be displayed in plain view of the public in the reception area of the shop or salon. The apprentice sponsor shall require each apprentice to wear a badge clearly indicating their status as a DOLI registered apprentice.

18 VAC 41-20-270. Sanitation and safety standards for shops, salons, and schools.

A. Sanitation and safety standards. Any shop, salon, school or facility where barber, cosmetology, or nail services are delivered to the public must be clean and sanitary at all times. Compliance with these rules does not confer compliance with other requirements set forth by federal, state and local laws, codes, ordinances, and regulations as they apply to business operation, physical construction and maintenance, safety, and public health. Licensees shall take sufficient measures to prevent the transmission of communicable and infectious diseases and comply with the sanitation standards identified in this section and shall insure that all employees likewise comply.

B. Disinfection and storage of implements.

1. A wet disinfection unit is a container large enough to hold a disinfectant solution in which the objects to be disinfected

are completely immersed. A wet disinfection unit must have a cover to prevent contamination of the solution. The solution must be a hospital (grade) and tuberculocidal disinfectant solution registered with the Environmental Protection Agency (EPA). Disinfectant solutions shall be used according to manufacturer's directions. Disinfection is to be carried out in the following manner:

- a. Remove hair and all foreign matter from the object.
- b. Wash thoroughly with hot water and soap.
- c. Rinse thoroughly with clean water and dry thoroughly with a clean paper towel.
- d. Fully immerse instruments into solution, and
- e. After immersion, rinse articles, thoroughly dry with a clean paper towel and store in a clean predisinfected and dry cabinet, drawer, or nonairtight covered container, or leave instruments in an EPA-registered disinfection/storage solution used according to manufacturer's directions.

2. For the purpose of recharging, rechargeable clippers may be stored in an area other than in a closed cabinet or container. This area shall be clean and the cutting edges of any clippers are to be disinfected.

3. Electrical clipper blades shall be disinfected before and after each use. Disinfection is to be carried out in the following manner:

- a. Remove all hair and foreign matter;
- b. Remove blade and all hair and foreign matter under blade; and
- c. Completely immerse clipper blade into an EPA-registered hospital (grade) and tuberculocidal disinfectant solution for not less than 10 minutes. Wipe the entire handle down with the solution.
- d. If the clipper blade cannot be removed, the use of a spray or foam used according to the manufacturer's instructions will be acceptable provided that the disinfectant is an EPA-registered hospital (grade) and tuberculocidal disinfectant solution, and that the entire handle is also disinfected by wiping with the disinfectant solution.

4. All materials including cosmetic and nail brushes, sponges, chamois, spatulas and galvanic electrodes must be cleaned with warm water and soap or detergent to remove all foreign matter. Implements should then be rinsed, thoroughly dried with a clean paper towel, and completely immersed in an EPA-registered hospital (grade) and tuberculocidal disinfectant solution. Such implements shall be soaked for 10 minutes or more, removed, rinsed, dried thoroughly and stored in a predisinfected and dry drawer, cabinet or nonairtight covered container, or left in an EPA-registered disinfection/storage solution used according to manufacturer's directions.

5. All wax pots will be cleaned and disinfected with an EPA-registered hospital (grade) and tuberculocidal disinfectant solution with no sticks left standing in the wax at any time.

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6. Each barber, cosmetologist, and nail technician must have a wet disinfection unit at his station.

7. Nail brushes, nippers, finger bowls, disinfectable or washable files and buffers and other instruments must be washed in soap and water (files are to be scrubbed with a brush to remove all foreign matter), rinsed, thoroughly dried with a clean paper towel, and then completely immersed in an EPA-registered hospital (grade) and tuberculocidal disinfectant solution for 10 minutes after each use. After disinfection they must be rinsed, dried thoroughly with a clean paper towel, and placed in a dry, pre-disinfected, nonairtight covered receptacle, cabinet or drawer, or left in an EPA-registered disinfectant/storage system used according to manufacturer's directions.

8. Drill bits are to be soaked in acetone and scrubbed with a wire brush to remove all foreign matter. All foreign matter must be removed. The drill bits must then be cleaned with warm water and soap or detergent and rinsed, dried thoroughly with a clean paper towel, and completely immersed in an EPA-registered hospital (grade) and tuberculocidal disinfectant solution. Such implements shall be soaked for 10 minutes or more, removed, rinsed, dried thoroughly, and stored in a pre-disinfected and dry drawer, cabinet or nonairtight covered container, or left in an EPA-registered disinfection/storage solution used according to manufacturer's directions.

C. General sanitation and safety requirements.

1. All furniture, walls, floors, and windows shall be clean and in good repair. Wash basins and shampoo sinks shall be clean.

2. The floor surface in the immediate work area must be of a washable surface other than carpet. The floor must be kept clean, free of hair, dropped articles, spills and electrical cords;

3. Walls and ceilings in the immediate work area must be in good repair, free of water seepage and dirt. Any mats shall be secured or shall lay flat;

4. A fully functional bathroom in the same building with a working toilet and sink must be available for clients. Fixtures must be in good condition. The bathroom must be lighted and sufficiently ventilated. If there is a window, it must have a screen. There must be antibacterial soap and clean individual towels for the client's use. Laundering of towels is allowed, space permitting. The bathroom must not be used as a work area or for the open storage of chemicals;

5. General areas for client use must be neat and clean with a waste receptacle for common trash;

6. Electrical cords shall be placed to prevent entanglement by the client or licensee;

7. Electrical outlets shall be covered by plates;

8. The salon area shall be sufficiently ventilated to exhaust hazardous or objectionable airborne chemicals, and to allow the free flow of air;

9. Adequate lighting shall be provided.

D. Equipment sanitation.

1. Service chairs, wash basins, shampoo sinks and workstations shall be clean. Floors shall be kept free of hair, nail product, and other waste materials. Combs, brushes, towels, razors, clippers, scissors, nippers, and other instruments shall be cleaned and sanitized after every use and stored free from contamination.

2. The top of workstands or back bars shall be kept clean;

3. The work area shall be free of clutter, trash, and any other items that may cause a hazard;

4. Heat-producing appliances and equipment shall be placed so as to prevent any accidental injury to the client or licensee; and

5. Electrical appliances and equipment shall be in safe working order at all times.

E. Articles, tools and products.

1. Clean towels and robes shall be used for each patron. Soiled towels and robes or smocks shall be stored in an enclosed container except if the towels are in separate laundry rooms.

2. Whenever a haircloth is used, a clean towel or neck strip shall be placed around the neck of the patron to prevent the haircloth from touching the skin.

3. Scissors, razors, clippers, nippers, and all sharp-edged cutting instruments shall be sanitized after each use with a disinfectant in accordance with the manufacturer's instructions.

4. Hair brushes and combs shall be washed in soap and hot water and sanitized after each use. Cleaned instruments, such as combs, hair brushes, shears, towels, etc., shall be kept free from contamination.

5. No alum or other astringent shall be used in stick form. Liquid or powder astringent must be used.

6. Permanent wave rods shall be rinsed after each use. End papers shall not be reused and shall be destroyed after each use.

7. Soiled implements must be removed from the tops of work stations immediately after use;

8. Clean spatulas, other clean tools, or clean disposable gloves shall be used to remove bulk substances from containers;

9. Powder puffs, lip color, cheek color, sponges, or styptic pencils that cannot be sanitized or sterilized are prohibited from being used on more than one client;

10. Lotions, ointments, creams, and powders shall be kept in closed containers. A clean spatula shall be used to remove creams or ointments from jars. Sterile cotton shall be used to apply creams, lotions and powders. Cosmetic containers shall be recovered after each use;

11. For nail care, a sanitary container shall be provided to each client. Emery boards shall be discarded after use on each individual client;

12. All sharp tools, implements, and heat-producing appliances shall be safely stored;

13. Pre-sanitized tools and implements, linens and equipment shall be stored for use in a sanitary enclosed cabinet or covered receptacle;

14. Soiled towels, linens and implements shall be deposited in a container made of cleanable materials and separate from those that are clean or pre-sanitized;

15. No substance other than a sterile styptic powder or sterile liquid astringent approved for homeostasis and applied with a sterile single-use applicator shall be used to check bleeding; and

16. Any disposable material making contact with blood or other body fluid shall be disposed of in a sealed plastic bag and removed from the shop, salon, school or facility in accordance with the guidelines of the Department of Health.

F. Chemical storage and emergency information.

1. Shops, salons, schools and facilities shall have in the immediate working area a binder with all Material Safety Data Sheets (MSDS) provided by manufacturers for any chemical products used;

2. Shop, salons, schools and facilities shall have a blood spill clean-up kit in the work area;

3. Flammable chemicals shall be stored in a nonflammable storage cabinet or a properly ventilated room; and

4. Chemicals that could interact in a hazardous manner (oxidizers, catalysts and solvents) shall be separated in storage.

G. Client health guidelines.

1. All employees providing client services shall cleanse their hands with an antibacterial product prior to providing services to each client. Licensees shall require that clients for nail care services shall cleanse their hands immediately prior to the requested nail care service;

2. An artificial nail shall only be applied to a healthy natural nail;

3. A nail drill or motorized instrument shall be used only on the free edge of the nail;

4. No shop, salon, school or facility providing cosmetology or nail care services shall have on the premises cosmetic products containing hazardous substances that have been banned by the U.S. Food and Drug Administration (FDA) for use in cosmetic products.

5. No product shall be used in a manner that is disapproved by the FDA; and

6. All regulated services must be performed in a facility that is in compliance with current local building and zoning codes.

H. In addition to any requirements set forth in this section, all licensees and temporary permit holders shall adhere to regulations and guidelines established by the Virginia Department of Health and the Occupational Safety and Health

Compliance Division of the Virginia Department of Labor and Industry.

I. All shops, salons, schools and facilities shall immediately report the results of any inspection of the shop, salon, or school by the Virginia Department of Health as required by § 54.1-705 of the Code of Virginia.

J. All shops, salons, schools and facilities shall maintain a self-inspection form on file to be updated on an annual basis, and kept for five years, so that it may be requested and reviewed by the board at its discretion.

18 VAC 41-20-280. Grounds for license revocation or suspension; denial of application, renewal or reinstatement; or imposition of a monetary penalty.

A. The board may, in considering the totality of the circumstances, fine any licensee, certificate holder, or permit holder, and to suspend or revoke or refuse to renew or reinstate any license, certificate, or permit, or deny any application issued under the provisions of Chapter 7 (§ 54.1-700 et seq.) of Title 54.1 of the Code of Virginia and the regulations of the board if the board finds that:

1. The licensee, certificate holder, permit holder or applicant is incompetent, or negligent in practice, or incapable mentally or physically, as those terms are generally understood in the profession, to practice as a barber, cosmetologist, or nail technician;

2. The licensee, certificate holder, permit holder or applicant is convicted of fraud or deceit in the practice or teaching of barbering, cosmetology, or nail care;

3. The licensee, certificate holder, permit holder or applicant obtained, renewed or reinstated a license, certificate, or permit by false or fraudulent representation;

4. The licensee, certificate holder, permit holder or applicant violates or induces others to violate, or cooperates with others in violating, any of the provisions of these regulations or Chapter 7 (§ 54.1-700 et seq.) of Title 54.1 of the Code of Virginia or any local ordinance or regulation governing standards of health and sanitation of the establishment in which any barber, cosmetologist, or nail technician may practice or offer to practice;

5. The licensee, certificate holder, permit holder or applicant fails to produce, upon request or demand of the board or any of its agents, any document, book, record, or copy thereof in a licensee's or owner's possession or maintained in accordance with these regulations;

6. A licensee, certificate holder, or permit holder fails to notify the board of a change of name or address in writing within 30 days of the change for each and every license, certificate, or permit. The board shall not be responsible for the licensee's, certificate holder's, or permit holder's failure to receive notices, communications and correspondence caused by the licensee's, certificate holder's, or permit holder's failure to promptly notify the board in writing of any change of name or address or for any other reason beyond the control of the board;

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7. The licensee, certificate holder, permit holder or applicant publishes or causes to be published any advertisement that is false, deceptive, or misleading;

8. The licensee, certificate holder, permit holder or applicant fails to notify the board in writing within 30 days of the suspension, revocation, or surrender of a license, certificate, or permit in connection with a disciplinary action in any other jurisdiction or of any license, certificate, or permit that has been the subject of disciplinary action in any other jurisdiction; or

9. In accordance with § 54.1-204 of the Code of Virginia, the licensee, certificate holder, permit holder or applicant has been convicted in any jurisdiction of a misdemeanor or felony that directly relates to the profession of barbering, cosmetology, or nail care. The board shall have the authority to determine, based upon all the information available, including the applicant's record of prior convictions, if the applicant is unfit or unsuited to engage in the profession of barbering, cosmetology, or nail care. The board will decide each case by taking into account the totality of the circumstances. Any plea of nolo contendere shall be considered a conviction for the purposes of this section. The applicant shall provide a certified copy of a final order, decree or case decision by a court or regulatory agency with the lawful authority to issue such order, decree or case decision, and such copy shall be admissible as prima facie evidence of such conviction. This record shall be forwarded by the applicant to the board within 10 days after all appeal rights have expired.

B. The board may, in considering the totality of the circumstances, revoke, suspend or refuse to renew or reinstate the license of any school or impose a fine as permitted by law, or both, if the board finds that:

1. An instructor of the approved school fails to teach the curriculum as provided for in these regulations;
2. The owner or director of the approved school permits or allows a person to teach in the school without a current instructor certificate; or
3. The instructor, owner or director is guilty of fraud or deceit in the teaching of barbering, cosmetology or nail care.

C. The board may, in considering the totality of the circumstances, revoke, suspend or refuse to renew or reinstate the license of any barbershop, cosmetology or nail salon or impose a fine as permitted by law, or both, if the board finds that:

1. The owner or operator of the shop or salon fails to comply with the sanitary requirements of barbershops or cosmetology or nail salons provided for in these regulations or in any local ordinances; or
2. The owner or operator allows a person who has not obtained a license or a temporary permit to practice as a barber, cosmetologist, or nail technician unless the person is duly enrolled as a registered apprentice.

D. The board may, in considering the totality of the circumstances, revoke, suspend or refuse to renew or

reinstate the license of any licensee or impose a fine as permitted by law, or both, if the board finds that the licensee fails to take sufficient measures to prevent transmission of communicable or infectious diseases or fails to comply with any local, state or federal law or regulation governing the standards of health and sanitation for the practices of barbering, cosmetology, or nail care.

NOTICE: The forms used in administering 18 VAC 41-20, Barbering and Cosmetology Regulations, are not being published due to the large number; however, the name of each form is listed below. The forms are available for public inspection at the Board for Barbers and Cosmetology, 3600 W. Broad Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

FORMS

Cosmetology and Nail Technician Examination Application, 12EX/EXAM APP (eff. 7/9/02).

Cosmetology and Nail Technician License Application, 12LIC/COSMO LIC APP (eff. 7/9/02).

Barber Examination Application, 13EX/BAR EXAM APP (eff. 7/9/02).

Barber License Application, 13LIC/BAR LIC APP (eff. 7/9/02).

Endorsement Application, 1213END/END APP (eff. 7/2/02).

Reinstatement Application, 1213REI/REINSTATE APP (eff. 7/2/02).

Salon or Shop License Application, 1213SLSH/SALON OR SHOP LIC APP (eff. 7/2/02).

Cosmetology School License Application, 12SCHL/COSMO SCHOOL LIC APP (eff. 7/2/02).

Barber School License Application, 13SCHL/BAR SCHL LIC APP (eff. 7/2/02).

Cosmetology Training and Experience Verification Form, 12ETREXP/COSMO TRAIN & EXP FORM (eff. 7/1/00).

Cosmetology Temporary Permit Application, 12ETP/COSMO TEMP PERMIT APP (eff. 7/9/02).

VA.R. Doc. No. R02-241; Filed July 10, 2002; 11:47 a.m.

REAL ESTATE APPRAISER BOARD

Title of Regulation: 18 VAC 130-20. Real Estate Appraiser Board Rules and Regulations (amending 18 VAC 130-20-10, 18 VAC 130-20-30, 18 VAC 130-20-50, 18 VAC 130-20-70, 18 VAC 130-20-110, 18 VAC 130-20-170, 18 VAC 130-20-180, 18 VAC 130-20-200, 18 VAC 130-20-220, 18 VAC 130-20-230).

Statutory Authority: §§ 54.1-201 and 54.1-2013 of the Code of Virginia.

Public Hearing Date: September 11, 2002 - 3 p.m.

Public comments may be submitted until 5 p.m. on September 30, 2002.

(See Calendar of Events section for additional information)

Agency Contact: Karen W. O'Neal, Deputy Director, Real Estate Appraiser Board, 3600 W. Broad Street, Richmond, VA 23230, telephone (804) 367-8537, FAX (804) 367-2475 or e-mail oneal@dpor.state.va.us.

Basis: Section 54.1-2013 of the Code of Virginia states that the board "may do all things necessary and convenient for carrying into effect the provisions of this chapter and all things required or expected of a state appraiser certifying and licensing agency under Title 11 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (12 U.S.C. § 3301 et seq.)." The Financial Institutions Reform, Recovery and Enforcement Act (FIRREA) was passed by Congress in 1989 as a result of the savings and loan crisis and requires the state licensing of real estate appraisers. FIRREA created the Appraisal Subcommittee, which monitors and reviews the practices, procedures, activities, and organizational structure of the Appraisal Foundation. The Appraisal Foundation consists of the Appraiser Qualifications Board (AQB) and the Appraisal Standards Board (ASB). The AQB sets minimum qualifications all states must use in licensing appraisers. The ASB promulgates the Uniform Standards of Professional Appraisal Practice (USPAP), which are incorporated into the board's regulations.

Purpose: The purpose of the proposal is to further protect consumers, primarily financial institutions, from making unsound loan decisions by ensuring competency, including continuing competency, of all licensed real estate appraisers. The proposal incorporates changes made by the federal regulating bodies to permit renewal on an inactive status and to make clarifying changes.

Substance: The proposed amendments clarify language contained in 18 VAC 130-20-30.4 and 18 VAC 130-20-180 K.2 regarding criminal convictions.

The proposed amendments require all applicants to sign an affidavit certifying that the applicant has read and understands the Real Estate Appraiser law and regulations. This provision currently applies only to reciprocal applicants. This provision was in place when Virginia applicants were required to take a rules and regulation portion of the examination and reciprocal applicants were not. Currently, no applicants are required to take a rules and regulation examination.

These changes amend qualifications for temporary licensure provisions to: (i) specify that a specific appraisal assignment may include multiple properties; (ii) delete language regarding substantially equivalent requirements in other jurisdictions; (iii) delete reference to disciplinary actions in other jurisdictions; (iv) delete the age requirement; and (v) specify that more than one temporary license may be issued per year. All of these changes were recommended by the Appraisal Subcommittee.

The changes add language permitting an individual to renew a license on inactive status.

The amendments change requirements in AQB criteria.

The amendments change all references to a specific section of the Uniform Standards of Professional Appraisal Practice to

a general reference to ensure that all provisions relevant to a specific appraisal assignment apply.

Issues: The advantage to the public and the Commonwealth resulting from the proposed regulatory changes is to further protect consumers, primarily financial institutions, from making unsound loan decisions by ensuring competency, including continuing competency, of all licensed real estate appraisers. No disadvantages to the public or the Commonwealth have been identified.

Department of Planning and Budget's Economic Impact Analysis: The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007 G of the Administrative Process Act and Executive Order Number 25 (98). Section 2.2-4007 G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the proposed regulation. Based on changes to the U.S. Appraisal Qualifications Board (AQB) criteria, the Virginia Real Estate Appraiser Board (board) proposes to make several changes to the regulations, including: (i) changing the required course time for the Uniform Standards of Professional Appraisal Practice (USPAP) update course, and (ii) requiring that all USPAP courses taught for continuing education credit be taught by instructors certified by AQB. In addition, the board proposes to: (i) create an "inactive license" status, and (ii) permit courses approved by the AQB to meet board requirements without further review.

Estimated economic impact. U.S. Title 11 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA) requires the state licensing of real estate appraisers. FIRREA created the Appraisal Subcommittee, which monitors and reviews the practices, procedures, activities, and organizational structure of the Appraisal Foundation. The Appraisal Foundation consists of the Appraisal Qualifications Board (AQB) and the Appraisal Standards Board (ASB). The AQB sets minimum qualifications all states must use in licensing appraisers. The ASB promulgates the Uniform Standards of Professional Appraisal Practice (USPAP), which are incorporated into the Virginia Real Estate Appraiser Board regulations.

As a condition of license renewal, real estate appraisers must satisfactorily complete at least 28 classroom hours of continuing education courses or seminars each licensing term (two years). Under the current regulations, three of the 28 classroom hours completed to satisfy continuing education requirements must include a course approved by the board that, among other topics, covers recent developments in the USPAP. To comply with AQB changes, the board will now require that seven of the 28 classroom hours completed to satisfy continuing education requirements be an update on the USPAP. In addition, the board proposes to add language to

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address the new AQB requirement that effective January 1, 2003, all USPAP courses taught for continuing education credit are taught by instructors certified by AQB. According to the Department of Professional and Occupational Regulation (DPOR), AQB has not yet established a fee for their planned two-and-a-half day instructor certification course.

Currently, instructors certified by the board can teach prelicense or continuing education courses, including the three-hour board-approved course that covers USPAP updates. The proposal to require instructors who teach the USPAP update to be AQB certified will cost instructors two and a half days of their time, plus travel time and expenses, plus the yet to be determined fee. The instructors will likely pass on a portion of their additional costs to the appraisers taking their USPAP update course. The benefit of requiring that instructors of the USPAP update course take the AQB instructor certification class and become AQB certified depends on: (i) whether the instructors learn significantly more about USPAP updates than they otherwise would, (ii) whether the AQB certification course enables instructors to teach USPAP updates significantly better, (iii) whether appraisers would learn significantly more about USPAP updates when their instructors have AQB certification, and (iv) whether having significantly more knowledge about USPAP updates enables appraisers to conduct significantly more accurate appraisals. If appraisers are able to make significantly improved appraisals, then their clients could make improved business decisions concerning real estate (sales, purchases, loans, etc.).

The AQB has yet to offer their planned instructor certification course. Thus, no evidence yet exists to estimate how much more instructors would learn about USPAP updates and whether their instruction would improve, and whether appraisers would learn significantly more about USPAP updates and whether the improved knowledge would significantly improve their appraisals. Since no relevant data on the potential benefits of requiring AQB instructor certification exist, an accurate estimate of the economic effects of the proposed change cannot be made.

The board proposes two changes to the regulations that are not mandated by the AQB. First, the board proposes to create an "inactive license" status. Currently, if a licensed appraiser fails to complete 28 hours of continuing education courses within their two-year license period, he must reapply for a new license. Obtaining a new license requires the individual to retake the qualifying exam, which costs \$75, time, and the possibility of failure. In addition the individual is required to pay a \$50 National Registry Fee Assessment as well as initial licensure fees that exceed renewal fees by \$10 to \$40, depending on the designation applied for. The proposed "inactive license" status would describe "a license that has been renewed without meeting the continuing education requirements ..." An individual with an inactive license would not legally be permitted to conduct appraisals, but would regain an active license that would permit normal appraisal activity once he completed the continuing education requirements. This proposed change would save affected appraisers the costs described above. Since the affected appraisers will have been exposed to the benefits of the full complement of information available in the 28 hours of

continuing education courses prior to legally conducting appraisals, the proposed change does not appear to put the public at risk. Thus, this proposed change would likely produce a net economic benefit.

Second, the board proposes to permit courses approved by the AQB to meet board requirements without further review. The board currently reviews all appraisal educational courses for approval. This proposed change will save instructors offering courses already approved by the AQB time and a \$135 fee. Since the board consistently approves courses that have already been approved by the AQB,¹ the public does not appear to be put at any risk due to this proposed change. Thus, this proposed change would also likely produce a net economic benefit for the Commonwealth.

Businesses and entities affected. The proposed amendments affect the 2,618 licensed appraisers in Virginia, as well as the 58 appraiser course instructors certified by the Commonwealth.

Localities particularly affected. The proposed amendments will affect localities throughout the Commonwealth.

Projected impact on employment. The proposed amendments are not expected to significantly affect employment.

Effects on the use and value of private property. The net value of some instructors' teaching practices will be negatively affected by the costs that they incur due to the proposed requirement that all instructors of the USPAP update course be certified by AQB. These additional costs will likely be partially passed on to appraisers taking the course, and thus will slightly decrease the value of their practice as well. The inactive license status will reduce costs and thus increase the value of practices with affected appraisers. The proposal to permit courses approved by the AQB to meet board requirements without further review will save costs for instructors and will increase their value commensurately. Instructors may pass on a portion of the savings to their students and thus may slightly increase the value of their practice as well.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The agency concurs with the economic impact analysis performed by the Department of Planning and Budget.

Summary:

The proposal incorporates changes to criteria set forth by the Appraiser Qualifications Board and standards set by the Appraisal Standards Board of the Appraisal Foundation, permits renewal on an inactive status, and makes clarifying changes.

18 VAC 130-20-10. Definitions.

The following words and terms, when used in this chapter, unless a different meaning is provided or is plainly required by the context, shall have the following meanings:

¹ Source: DPOR

"Accredited colleges, universities, junior and community colleges" means those accredited institutions of higher learning approved by the Virginia Council of Higher Education or listed in the Transfer Credit Practices of Designated Educational Institutions, published by the American Association of Collegiate Registrars and Admissions Officers or a recognized international equivalent.

"Adult distributive or marketing education programs" means those programs offered at schools approved by the Virginia Department of Education or any other local, state, or federal government agency, board or commission to teach adult education or marketing courses.

"Analysis" means a study of real estate or real property other than the estimation of value.

"Appraisal Foundation" means the foundation incorporated as an Illinois Not for Profit Corporation on November 30, 1987, to establish and improve uniform appraisal standards by defining, issuing and promoting such standards.

"Appraisal subcommittee" means the designees of the heads of the federal financial institutions regulatory agencies established by the Federal Financial Institutions Examination Council Act of 1978 (12 USC § 3301 et seq.), as amended.

"Appraiser" means any person who, for valuable consideration or with the intent or expectation of receiving the same from another, engages in real estate appraisal activity on any type of property.

"Appraiser classification" means any category of appraiser which the board creates by designating criteria for qualification for such category and by designating the scope of practice permitted for such category.

"Appraiser Qualifications Board" means the board created by the Appraisal Foundation to establish appropriate criteria for the certification and recertification of qualified appraisers by defining, issuing and promoting such qualification criteria; to disseminate such qualification criteria to states, governmental entities and others; and to develop or assist in the development of appropriate examinations for qualified appraisers.

"Appraiser trainee" means an individual who is licensed as an appraiser trainee to appraise those properties which the supervising appraiser is permitted to appraise.

"Business entity" means any corporation, partnership, association or other business entity under which appraisal services are performed.

"Certified general real estate appraiser" means an individual who meets the requirements for licensure that relate to the appraisal of all types of real estate and real property and is licensed as a certified general real estate appraiser.

"Certified instructor" means an individual holding an instructor certificate issued by the Real Estate Appraiser Board to act as an instructor.

"Certified residential real estate appraiser" means an individual who meets the requirements for licensure for the appraisal of any residential real estate or real property of one to four residential units regardless of transaction value or

complexity. Certified residential real estate appraisers may also appraise nonresidential properties with a transaction value up to \$250,000.

"Classroom hour" means 50 minutes out of each 60-minute segment. The prescribed number of classroom hours includes time devoted to tests which are considered to be part of the course.

"Distance education" means an educational process based on the geographical separation of provider and student (i.e., CD-ROM, on-line learning, correspondence courses, etc.).

"Experience" as used in this chapter includes but is not limited to experience gained in the performance of traditional appraisal assignments, or in the performance of the following: fee and staff appraisals, ad valorem tax appraisal, review appraisal, appraisal analysis, real estate counseling, highest and best use analysis, and feasibility analysis/study.

For the purpose of this chapter, experience has been divided into four major categories: (i) fee and staff appraisal, (ii) ad valorem tax appraisal, (iii) review appraisal, and (iv) real estate counseling.

1. *"Fee/staff appraiser experience"* means experience acquired as either a sole appraiser or as a cosigner.

Sole appraiser experience is experience obtained by an individual who makes personal inspections of real estate, assembles and analyzes the relevant facts, and by the use of reason and the exercise of judgment, forms objective opinions and prepares reports as to the market value or other properly defined value of identified interests in said real estate.

Cosigner appraiser experience is experience obtained by an individual who signs an appraisal report prepared by another, thereby accepting full responsibility for the content and conclusions of the appraisal.

To qualify for fee/staff appraiser experience, an individual must have prepared written appraisal reports which meet minimum standards. For appraisal reports dated prior to July 1, 1991, these minimum standards include the following (if any item is not applicable, the applicant shall adequately state the reasons for the exclusions):

- a. An adequate identification of the real estate and the interests being appraised;
- b. The purpose of the report, date of value, and date of report;
- c. A definition of the value being appraised;
- d. A determination of highest and best use;
- e. An estimate of land value;
- f. The usual valuation approaches for the property type being appraised or the reason for excluding any of these approaches;
- g. A reconciliation and conclusion as to the property's value;

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- h. Disclosure of assumptions or limiting conditions, if any; and
- i. Signature of appraiser.

For appraisal reports dated subsequent to July 1, 1991, the minimum standards for written appraisal reports are those as prescribed in Standard 2 of the Uniform Standards of Professional Appraisal Practice in the edition in effect at the time of the reports' preparation.

2. "*Ad valorem tax appraisal experience*" means experience obtained by an individual who assembles and analyzes the relevant facts, and who correctly employs those recognized methods and techniques that are necessary to produce and communicate credible appraisals within the context of the real property tax laws. Ad valorem tax appraisal experience may be obtained either through individual property appraisals or through mass appraisals as long as applicants under this category of experience can demonstrate that they are using techniques to value real property similar to those being used by fee/staff appraisers and that they are effectively utilizing the appraisal process.

To qualify for ad valorem tax appraisal experience for individual property appraisals, an individual must have prepared written appraisal reports which meet minimum standards. For appraisal reports dated prior to July 1, 1991, these minimum standards include the following (if any item is not applicable, the applicant shall adequately state the reasons for the exclusions):

- a. An adequate identification of the real estate and the interests being appraised;
- b. The effective date of value;
- c. A definition of the value being appraised if other than fee simple;
- d. A determination of highest and best use;
- e. An estimate of land value;
- f. The usual valuation approaches for the property type being appraised or the reason for excluding any of these approaches;
- g. A reconciliation and conclusion as to the property's value; and
- h. Disclosure of assumptions or limiting conditions, if any.

For appraisal reports dated subsequent to July 1, 1991, the minimum standards for written appraisal reports are those as prescribed in the Uniform Standards of Professional Appraisal Practice in the edition in effect at the time of the reports' preparation.

To qualify for ad valorem tax appraisal experience for mass appraisals, an individual must have prepared mass appraisals or have documented mass appraisal files which meet minimum standards. For mass appraisals dated prior to July 1, 1991, these minimum standards include the following (if any item is not applicable, the applicant shall adequately state the reasons for the exclusions):

- a. An adequate identification of the real estate and the interests being appraised;
- b. The effective date of value;
- c. A definition of the value being appraised if other than fee simple;
- d. A determination of highest and best use;
- e. An estimate of land value; and
- f. Those recognized methods and techniques that are necessary to produce a credible appraisal.

For mass appraisal reports dated subsequent to July 1, 1991, the minimum standards for these appraisal reports are those as prescribed in Standard 6 of the Uniform Standards of Professional Appraisal Practice in the edition in effect at the time of the reports' preparation.

In addition to the preceding, to qualify for ad valorem tax appraisal experience, the applicant's experience log must be attested to by the applicant's supervisor.

3. "*Reviewer experience*" means experience obtained by an individual who examines the reports of appraisers to determine whether their conclusions are consistent with the data reported and other generally known information. An individual acting in the capacity of a reviewer does not necessarily make personal inspection of real estate, but does review and analyze relevant facts assembled by fee/staff appraisers, and by the use of reason and exercise of judgment, forms objective conclusions as to the validity of fee/staff appraisers' opinions. Reviewer experience shall not constitute more than 1,000 hours of total experience claimed and at least 50% of the review experience claimed must be in field review wherein the individual has personally inspected the real property which is the subject of the review.

To qualify for reviewer experience, an individual must have prepared written reports recommending the acceptance, revision, or rejection of the fee/staff appraiser's opinions, which written reports must meet minimum standards. For appraisal reviews dated prior to July 1, 1991, these minimum standards include the following (if any item is not applicable, the applicant shall adequately state the reasons for the exclusions):

- a. An identification of the report under review, the real estate and real property interest being appraised, the effective date of the opinion in the report under review, and the date of the review;
- b. A description of the review process undertaken;
- c. An opinion as to the adequacy and appropriateness of the report being reviewed, and the reasons for any disagreement;
- d. An opinion as to whether the analyses, opinions, and conclusions in the report under review are appropriate and reasonable, and the development of any reasons for any disagreement;
- e. Signature of reviewer.

For appraisal review reports dated subsequent to July 1, 1991, the minimum standards for these appraisal reports are those as prescribed in Standard 3 of the Uniform Standards of Professional Appraisal Practice in the edition in effect at the time of the reports' preparation.

Signing as "Review Appraiser" on an appraisal report prepared by another will not qualify an individual for experience in the reviewer category. Experience gained in this capacity will be considered under the cosigner subcategory of fee/staff appraiser experience.

4. *"Real estate counseling experience"* means experience obtained by an individual who assembles and analyzes the relevant facts and by the use of reason and the exercise of judgment, forms objective opinions concerning matters other than value estimates relating to real property. Real estate counseling experience includes, but is not necessarily limited to, the following:

- Absorption Study
- Ad Valorem Tax Study
- Annexation Study
- Assemblage Study
- Assessment Study
- Condominium Conversion Study
- Cost-Benefit Study
- Cross Impact Study
- Depreciation/Cost Study
- Distressed Property Study
- Economic Base Analysis
- Economic Impact Study
- Economic Structure Analysis
- Eminent Domain Study
- Feasibility Study
- Highest and Best Use Study
- Impact Zone Study
- Investment Analysis Study
- Investment Strategy Study
- Land Development Study
- Land Suitability Study
- Land Use Study
- Location Analysis Study
- Market Analysis Study
- Market Strategy Study
- Market Turning Point Analysis
- Marketability Study
- Portfolio Study
- Rehabilitation Study
- Remodeling Study
- Rental Market Study
- Right of Way Study
- Site Analysis Study
- Utilization Study
- Urban Renewal Study
- Zoning Study

To qualify for real estate counseling experience, an individual must have prepared written reports which meet minimum standards. For real estate counseling reports dated prior to July 1, 1991, these minimum standards include the following (if any item is not applicable, the applicant shall so state the reasons for the exclusions):

- a. A definition of the problem;
- b. An identification of the real estate under consideration (if any);
- c. Disclosure of the client's objective;
- d. The effective date of the consulting assignment and date of report;
- e. The information considered, and the reasoning that supports the analyses, opinions, and conclusions;
- f. Any assumptions and limiting conditions that affect the analyses, opinions, and conclusions;
- g. Signature of real estate counselor.

For real estate counseling reports dated subsequent to July 1, 1991, the minimum standards for these appraisal reports are those as prescribed in Standard 4 of the Uniform Standards of Professional Appraisal Practice in the edition in effect at the time of the reports' preparation. Real estate counseling shall not constitute more than 500 hours of experience for any type of appraisal license.

"Inactive license" means a license that has been renewed without meeting the continuing education requirements specified in this chapter. Inactive licenses do not meet the requirements set forth in § 54.1-2011 of the Code of Virginia.

"Licensed residential real estate appraiser" means an individual who meets the requirements for licensure for the appraisal of any noncomplex, residential real estate or real property of one to four residential units, including federally related transactions, where the transaction value is less than \$1 million. Licensed residential real estate appraisers may also appraise noncomplex, nonresidential properties with a transaction value up to \$250,000.

"Licensee" means any individual holding a *an active* license issued by the Real Estate Appraiser Board to act as a certified general real estate appraiser, certified residential real estate appraiser, licensed residential real estate appraiser, or appraiser trainee as defined, respectively, in § 54.1-2009 of the Code of Virginia and in this chapter.

"Local, state or federal government agency, board or commission" means an entity established by any local, federal or state government to protect or promote the health, safety and welfare of its citizens.

"Proprietary school" means a privately owned school offering appraisal or appraisal related courses approved by the board.

"Provider" means accredited colleges, universities, junior and community colleges; adult distributive or marketing education programs; local, state or federal government agencies, boards or commissions; proprietary schools; or real estate appraisal or real estate related organizations.

"Real estate appraisal activity" means the act or process of valuation of real property or preparing an appraisal report.

"Real estate appraisal" or *"real estate related organization"* means any appraisal or real estate related organization formulated on a national level, where its membership extends to more than one state or territory of the United States.

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"Reciprocity agreement" means a conditional agreement between two or more states that will recognize one another's regulations and laws for equal privileges for mutual benefit.

"Registrant" means any corporation, partnership, association or other business entity which provides appraisal services and which is registered with the Real Estate Appraiser Board in accordance with § 54.1-2011 E of the Code of Virginia.

"Reinstatement" means having a license or registration restored to effectiveness after the expiration date has passed.

"Renewal" means continuing the effectiveness of a license or registration for another period of time.

"Sole proprietor" means any individual, but not a corporation, partnership or association, who is trading under his own name, or under an assumed or fictitious name pursuant to the provisions of §§ 59.1-69 through 59.1-76 of the Code of Virginia.

"Substantially equivalent" is any educational course or seminar, experience, or examination taken in this or another jurisdiction which is equivalent in classroom hours, course content and subject, and degree of difficulty, respectively, to those requirements outlined in this chapter and Chapter 20.1 (§ 54.1-2009 et seq.) of Title 54.1 of the Code of Virginia for licensure and renewal.

"Supervising appraiser" means any individual holding a license issued by the Real Estate Appraiser Board to act as a certified general real estate appraiser, certified residential real estate appraiser, or licensed residential real estate appraiser who supervises any unlicensed person acting as a real estate appraiser or an appraiser trainee as specified in this chapter.

"Transaction value" means the monetary amount of a transaction which may require the services of a certified or licensed appraiser for completion. The transaction value is not always equal to the market value of the real property interest involved. For loans or other extensions of credit, the transaction value equals the amount of the loan or other extensions of credit. For sales, leases, purchases and investments in or exchanges of real property, the transaction value is the market value of the real property interest involved. For the pooling of loans or interests in real property for resale or purchase, the transaction value is the amount of the loan or the market value of real property calculated with respect to each such loan or interest in real property.

"Uniform Standards of Professional Appraisal Practice" means those standards promulgated by the Appraisal Standards Board of the Appraisal Foundation for use by all appraisers in the preparation of appraisal reports.

"Valuation" means an estimate of the value of real property.

"Valuation assignment" means an engagement for which an appraiser is employed or retained to give an analysis, opinion or conclusion that results in an estimate of the value of an identified parcel of real property as of a specified date.

"Waiver" means the voluntary, intentional relinquishment of a known right.

18 VAC 130-20-30. General qualifications for licensure.

Every applicant to the Real Estate Appraiser Board for a certified general, certified residential, or licensed residential real estate appraiser license shall meet the following qualifications:

1. The applicant shall be of good moral character, honest, truthful, and competent to transact the business of a licensed real estate appraiser in such a manner as to safeguard the interests of the public.

2. The applicant shall meet the current educational and experience requirements and submit a license application to the Department of Professional and Occupational Regulation or its agent prior to the time the applicant is approved to take the licensing examination. Applications received by the department or its agent must be complete within 12 months of the date of the receipt of the license application and fee by the Department of Professional and Occupational Regulation or its agent.

3. *The applicant shall sign, as part of the application, an affidavit certifying that the applicant has read and understands the Virginia real estate appraiser license law and the regulations of the Real Estate Appraiser Board.*

~~3.~~ 4. The applicant shall be in good standing as a real estate appraiser in every jurisdiction where licensed or certified; the applicant may not have had a license or certification which was suspended, revoked or surrendered in connection with a disciplinary action or which has been the subject of discipline in any jurisdiction prior to applying for licensure in Virginia.

~~4.~~ 5. The applicant may not have been convicted, found guilty or pled guilty, regardless of adjudication, in any jurisdiction of a misdemeanor involving moral turpitude or of any felony. Any plea of nolo contendere shall be considered a conviction for purposes of this subdivision. ~~The record of a conviction authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted~~ *A certified copy of a final order, decree or case decision, by a court with the lawful authority to issue such order, decree or case decision shall be admissible as prima facie evidence of such conviction.*

~~5.~~ 6. The applicant shall be at least 18 years old.

~~6.~~ 7. The applicant shall have successfully completed 90 hours for the licensed residential classification, 120 hours for the certified residential classification, and 180 hours for the certified general classification, of approved real estate appraisal courses, including a course of at least 15 hours on the Uniform Standards of Professional Appraisal Practice, from accredited colleges, universities, junior and community colleges; adult distributive or marketing education programs; local, state or federal government agencies, boards or commissions; proprietary schools; or real estate appraisal or real estate related organizations. The classroom hours required for the licensed residential real estate appraiser may include the classroom hours required for the appraiser trainee. The classroom hours required for the certified residential real estate appraiser may include the classroom hours required for the appraiser trainee or

the licensed real estate appraiser and may also include 30 hours of related courses in topics specified in 18 VAC 130-20-220 A 1. The classroom hours required for the certified general real estate appraiser may include the classroom hours required for the appraiser trainee, the licensed residential real estate appraiser, or the certified residential real estate appraiser and may also include 30 hours of related courses in topics specified in 18 VAC 130-20-220 A 1.

All applicants for licensure as a certified general real estate appraiser must complete an advanced level appraisal course of at least 30 classroom hours in the appraisal of nonresidential properties.

~~7.~~ 8. The applicant shall execute an affidavit as part of the application for licensure attesting to his experience in the field of real estate appraisal. All applicants must submit, upon application, sample appraisal reports as specified by the board. In addition, all experience must be supported by adequate written reports or file memoranda which shall be made available to the board upon request.

a. Applicants for a licensed residential real estate appraiser license shall have a minimum of 2,000 hours appraisal experience obtained continuously over a period of not less than 24 months. Hours may be treated as cumulative in order to achieve the necessary 2,000 hours of appraisal experience.

b. Applicants for a certified residential real estate appraiser license shall have a minimum of 2,500 hours of appraisal experience obtained continuously over a period of not less than 24 months. Hours may be treated as cumulative in order to achieve the necessary 2,500 hours of appraisal experience.

c. Applicants for a certified general real estate appraiser license shall have a minimum of 3,000 hours of appraisal experience obtained continuously over a period of not less than 30 months. Hours may be treated as cumulative in order to achieve the necessary 3,000 hours of appraisal experience. At least 50% of the appraisal experience required (1,500 hours) must be in nonresidential appraisal assignments and include assignments which demonstrate the use and understanding of the income approach. An applicant whose nonresidential appraisal experience is predominately in such properties which do not require the use of the income approach may satisfy this requirement by performing two or more appraisals on properties in association with a certified general appraiser which include the use of the income approach.

~~8.~~ 9. Within 12 months after being approved by the board to take the examination, the applicant shall have registered for and passed a written examination endorsed by the Appraiser Qualifications Board and provided by the board or by a testing service acting on behalf of the board.

~~9.~~ 10. Applicants for licensure who do not meet the requirements set forth in subdivisions ~~3~~ 4 and ~~4~~ 5 of this section may be approved for licensure following consideration of their application by the board.

18 VAC 130-20-50. Qualifications for temporary licensure.

An individual who is currently licensed or certified as a real estate appraiser in another jurisdiction may obtain a temporary Virginia real estate appraiser's license as required by Section 1121 of the Federal Financial Institutions Reform, Recovery and Enforcement Act of 1989, 12 USCS § 1811.

The appraiser's permanent certification or license issued by another state shall be recognized as equivalent to a Virginia license provided that:

1. The appraiser's business is of a temporary nature, and is limited to one specific assignment not to exceed 12 months. *A specific assignment may include multiple properties.* The temporary assignment must be complete prior to the expiration date of the permanent certification or license issued by another state.

~~2. The education, experience and general examination completed in the jurisdiction of original licensure is deemed to be substantially equivalent to those required for the appropriate level of licensure in Virginia.~~

~~3.~~ 2. The applicant shall sign, as part of the application, an affidavit certifying that the applicant has read and understands the Virginia real estate appraiser license law and the regulations of the Real Estate Appraiser Board.

~~4.~~ 3. The applicant shall be in good standing as a licensed or certified real estate appraiser in every jurisdiction where licensed or certified; the applicant may not have had a license or certification as a real estate appraiser which was suspended, revoked, or surrendered in connection with a disciplinary action ~~or which has been the subject of discipline in any jurisdiction prior to applying for licensure in Virginia.~~

~~5.~~ 4. The applicant shall be of good moral character, honest, truthful, and competent to transact the business of a real estate appraiser in such a manner as to safeguard the interest of the public.

~~6.~~ 5. The applicant may not have been convicted, found guilty or pled guilty, regardless of adjudication, in any jurisdiction of a misdemeanor involving moral turpitude or of any felony. Any plea of nolo contendere shall be considered a conviction for purposes of this subdivision. The record of a conviction authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such conviction.

~~7.~~ 6. Applicants for licensure who do not meet the requirements set forth in subdivisions ~~4~~ 3 and ~~6~~ 5 of this section may be approved for licensure following consideration by the board.

~~8. The applicant shall be at least 18 years of age.~~

Applicants for temporary licensure shall verify the above information on an application form provided by the board. A temporary license cannot be renewed. *More than one temporary license may be issued per year.*

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18 VAC 130-20-70. Requirement for the certification of appraisal education instructors.

Pursuant to the mandate of Title 11 of the Federal Financial Institutions Reform, Recovery and Enforcement Act of 1989, and § 54.1-2013 of the Code of Virginia, instructors teaching prelicense educational offerings who are not employed or contracted by accredited colleges, universities, junior and community colleges, adult distributive or marketing education programs are required to be certified by the board. ~~Instructors teaching the required continuing education course on recent developments in federal, state and local real estate appraisal law and regulation shall also be certified by the board and, at the board's discretion, may be required to attend training sessions sponsored by the board. Effective January 1, 2003, all Uniform Standards of Professional Appraisal Practice courses taught for continuing education credit must be taught by instructors certified by the Appraiser Qualifications Board.~~

18 VAC 130-20-110. Qualifications for renewal.

A. As a condition of renewal, and under § 54.1-2014 of the Code of Virginia, all *active* certified general real estate appraisers, certified residential real estate appraisers, and licensed residential real estate appraisers, resident or nonresident, shall be required to complete continuing education courses satisfactorily within each licensing term as follows:

1. All real estate appraisers must satisfactorily complete continuing education courses or seminars offered by accredited colleges, universities, junior and community colleges; adult distributive or marketing education programs; local, state or federal government agencies, boards or commissions; proprietary schools; or real estate appraisal or real estate related organizations of not less than 28 classroom hours during each licensing term.
2. All real estate appraisers may also satisfy continuing education requirements by participation other than as a student in educational processes and programs approved by the board to be substantially equivalent for continuing education purposes, including but not limited to teaching, program development, or authorship of textbooks.
3. ~~Three~~ Seven of the classroom hours completed to satisfy the continuing education requirements shall be a ~~course approved by the board on recent developments in federal, state and local real estate appraisal law and an update on regulation and the Uniform Standards of Professional Appraisal Practice.~~

B. In addition to the continuing education requirements specified in subsection A of this section all ~~applicants for renewal~~ *active certified general real estate appraisers, certified residential real estate appraisers, and licensed residential real estate appraisers, resident or nonresident*, shall be required to complete a 15-hour course in the Uniform Standards of Professional Appraisal Practice once every six years.

C. *As a condition of renewal, all licensed real estate appraiser trainees shall meet the continuing education requirements set forth in subsections A and B of this section beginning with the second licensing term. Continuing education is not required to*

renew a real estate appraiser trainee license at the expiration of the first licensing term.

D. All applicants for renewal of a license shall meet the standards for entry as set forth in subdivisions 1, 3 and 4 of 18 VAC 130-20-30.

~~D.~~ E. Applicants for the renewal of a registration shall meet the requirement for registration as set forth in 18 VAC 130-20-20.

~~E.~~ F. Applicants for the renewal of a certificate as an instructor shall meet the standards for entry as set forth in 18 VAC 130-20-80.

G. *Licensees applying to activate an inactive license must have met the continuing education requirements set forth in this section within two years prior to application to activate the license.*

18 VAC 130-20-170. Standards of ethical conduct.

In obtaining a real estate appraiser license and performing a real estate appraisal, a licensee shall comply with the ~~Ethics Provisions of the~~ Uniform Standards of Professional Appraisal Practice and the following standards of ethical conduct:

1. All applicants for licensure shall follow all rules established by the board with regard to conduct at the examination. Such rules shall include any written instructions communicated prior to the examination date and any instruction communicated at the site, either written or oral, on the date of the examination. Failure to comply with all rules established by the board or a testing service acting on behalf of the board with regard to conduct at the examination shall be grounds for denial of a license.
2. A licensee, certificate holder or registrant shall not obtain or attempt to obtain a license, certification or registration by false or fraudulent representation.
3. A licensee, registrant or certificate holder shall not make any misrepresentation.

18 VAC 130-20-180. Standards of professional practice.

A. The provisions of subsections C through J of this section shall not apply to local, state and federal employees performing in their official capacity.

B. Maintenance of licenses. The board shall not be responsible for the failure of a licensee, registrant, or certificate holder to receive notices, communications and correspondence.

1. Change of address.

- a. All licensed real estate appraisers, appraiser trainees, and certified instructors shall at all times keep the board informed in writing of their current home address and shall report any change of address to the board within 30 days of such change.
- b. Registered real estate appraisal business entities shall at all times keep the board informed in writing of their current business address and shall report any change of address to the board within 30 days of such change.

2. Change of name.

a. All real estate appraisers, appraiser trainees, and certified instructors shall promptly notify the board in writing and provide appropriate written legal verification of any change of name.

b. Registered real estate appraisal business entities shall promptly notify the board of any change of name or change of business structure in writing. In addition to written notification, corporations shall provide a copy of the Certificate of Amendment from the State Corporation Commission, partnerships shall provide a copy of a certified Partnership Certificate, and other business entities trading under a fictitious name shall provide a copy of the certificate filed with the clerk of the court where business is to be conducted.

3. Upon the change of name or address of the registered agent, associate, or partner, or sole proprietor designated by a real estate appraisal business entity, the business entity shall notify the board in writing of the change within 30 days of such event.

4. No license, certification or registration issued by the board shall be assigned or otherwise transferred.

5. All licensees, certificate holders and registrants shall operate under the name in which the license or registration is issued.

6. All certificates of licensure, registration or certification in any form are the property of the Real Estate Appraiser Board. Upon death of a licensee, dissolution or restructure of a registered business entity, or change of a licensee's, registrant's, or certificate holder's name or address, such licenses, registrations, or certificates must be returned with proper instructions and supplemental material to the board within 30 days of such event.

7. All appraiser licenses issued by the board shall be visibly displayed.

C. Use of signature and electronic transmission of report.

1. The signing of an appraisal report or the transmittal of a report electronically in accordance with the Appraisal Standards Board Statement on Appraisal Standards No. 8, 1998 Edition, shall indicate that the licensee has exercised complete direction and control over the appraisal. Therefore, no licensee shall sign or electronically transmit an appraisal which has been prepared by an unlicensed person unless such work was performed under the direction and supervision of the licensee in accordance with § 54.1-2011 C of the Code of Virginia.

2. All original appraisal reports shall be signed by the licensed appraiser. For narrative and letter appraisals, the signature and final value conclusion shall appear on the letter of transmittal and certification page. For form appraisals, the signature shall appear on the page designated for the appraiser's signature and final estimate of value. All temporary licensed real estate appraisers shall sign and affix their temporary license to the appraisal report or letter for which they obtained the license to authenticate such report or letter. Appraisal reports may be transmitted

electronically in accordance with Appraisal Standards Board Statement on Appraisal Standards No. 8. Reports prepared without the use of a seal shall contain the license number of the appraiser.

a. An appraiser may provide market analysis studies or counseling reports which do not constitute appraisals of market value provided such reports, studies or evaluations shall contain a conspicuous statement that such reports, studies or valuations are not an appraisal as defined in § 54.1-2009 of the Code of Virginia.

b. Application of the seal and signature or electronic transmission of the report indicates acceptance of responsibility for work shown thereon.

c. The seal shall conform in detail and size to the design illustrated below:



*The number on the seal shall be the 10-digit number or the last 6 digits, or the last significant digits on the license issued by the board.

D. Development of appraisal. In developing a real property appraisal, all licensees shall comply with the provisions of ~~Standard 1~~ of the Uniform Standards of Professional Appraisal Practice (USPAP) in the edition in effect at the time of the reports' preparation. If the required definition of value uses the word "market," licensees must use the definition of market value set forth in USPAP "DEFINITIONS."

E. Appraisal report requirements. In reporting a real property appraisal, a licensee shall meet the requirements of ~~Standard 2~~ of the Uniform Standards of Professional Appraisal Practice in the edition in effect at the time of the reports' preparation.

F. Reviewing an appraisal. In performing a review appraisal, a licensee shall comply with the requirements of ~~Standard 3~~ of the Uniform Standards of Professional Appraisal Practice in the edition in effect at the time of the reports' preparation. The reviewer's signature and seal shall appear on the certification page of the report.

G. Mass appraisals. In developing and reporting a mass appraisal for ad valorem tax purposes, a licensee shall comply with the requirements of ~~Standard 6~~ of the Uniform Standards of Professional Appraisal Practice in the edition in effect at the time of the reports' preparation.

H. Recordkeeping requirements.

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1. A licensee or registrant of the Real Estate Appraiser Board shall, upon request or demand, promptly produce to the board or any of its agents any document, book, or record in a licensee's possession concerning any appraisal which the licensee performed, or for which the licensee is required to maintain records for inspection and copying by the board or its agents. These records shall be made available at the licensee's place of business during regular business hours.

2. Upon the completion of an assignment, a licensee or registrant shall return to the rightful owner, upon demand, any document or instrument which the licensee possesses.

3. ~~Supervising appraisers shall make appraisal reports prepared by appraiser trainees available to the board, at the appraiser trainee's expense, upon request of the appraiser trainee for the purpose of documenting experience when applying to the board for licensure. The appraiser trainee shall be entitled to obtain copies of appraisal reports he prepared. The supervising appraiser shall keep copies of appraisal reports for a period of at least five years or at least two years after final disposition of any judicial proceedings in which testimony was given, whichever period expires last.~~

I. Disclosure requirements. A licensee appraising property in which he, any member of his family, his firm, any member of his firm, or any entity in which he has an ownership interest, has any interest shall disclose, in writing, to any client such interest in the property and his status as a real estate appraiser licensed in the Commonwealth of Virginia. As used in the context of this chapter, "any interest" includes but is not limited to an ownership interest in the property to be appraised or in an adjacent property or involvement in the transaction, such as deciding whether to extend credit to be secured by such property.

J. Competency. A licensee shall abide by the Competency Provision as stated in the Ethics Provision of the Uniform Standards of Professional Appraisal Practice in the edition in effect at the time of the reports' preparation.

K. Unworthiness.

1. A licensee shall act as a certified general real estate appraiser, certified residential real estate appraiser or licensed residential real estate appraiser in such a manner as to safeguard the interests of the public, and shall not engage in improper, fraudulent, or dishonest conduct.

2. A licensee may not have been convicted, found guilty or pled guilty, regardless of adjudication, in any jurisdiction of the United States of a misdemeanor involving moral turpitude or of any felony there being no appeal pending therefrom or the time for appeal having elapsed. Any plea of nolo contendere shall be considered a conviction for the purposes of this subdivision. ~~The record of a conviction certified or authenticated in such form as to be admissible in evidence of the laws of the jurisdiction where convicted. A certified copy of a final order, decree or case decision by a court with the lawful authority to issue such order or decree or case decision shall be admissible as prima facie evidence of such guilt.~~

3. A licensee shall inform the board in writing within 30 days of pleading guilty or nolo contendere or being convicted or found guilty, regardless of adjudication, of any felony or of a misdemeanor involving moral turpitude.

4. A licensee may not have had a license or certification as a real estate appraiser which was suspended, revoked, or surrendered in connection with a disciplinary action or which has been the subject of discipline in any jurisdiction.

5. A licensee shall inform the board in writing within 30 days of the suspension, revocation or surrender of an appraiser license or certification in connection with a disciplinary action in any other jurisdiction, and a licensee shall inform the board in writing within 30 days of any appraiser license or certification which has been the subject of discipline in any jurisdiction.

6. A licensee shall perform all appraisals in accordance with Virginia Fair Housing Law, § 36-96.1 et seq. of the Code of Virginia.

18 VAC 130-20-200. Requirement for the approval of appraisal educational offerings.

Pursuant to the mandate of Title 11 of the Federal Financial Institutions Reform, Recovery and Enforcement Act of 1989, § 54.1-2013 of the Code of Virginia, and the qualifications criteria set forth by the Appraisal Qualifications Board of the Appraisal Foundation, all educational offerings submitted for precensure and continuing education credit shall be approved by the board. ~~Although Educational offerings which that have been approved by the Appraisal Foundation's Educational Offering Review Panel may Appraiser Qualifications Board shall be considered to have met the standards for approval set forth in this chapter, all educational offerings must be approved by the board.~~

18 VAC 130-20-220. Standards for the approval of appraisal educational offerings for continuing education credit.

A. Content.

1. The content of courses, seminars, workshops or conferences which may be accepted for continuing education credit includes, but is not limited to those topics listed in 18 VAC 130-20-210 A 2 and below.

Ad valorem taxation

Arbitrations

Courses related to the practice of real estate appraisal

~~Construction~~ Development cost estimating

Ethics and Uniform Standards of Professional Appraisal Practice

Fair housing

Land use planning, zoning, and taxation

Management, leasing, brokerage, timesharing

Property development

Real estate appraisal (valuations/evaluations)

Real estate financing and investment

Real estate law

Real estate litigation

Real estate appraisal related computer applications

Real estate securities and syndication

Real property exchange

2. Courses, seminars, workshops or conferences submitted for continuing education credit must indicate that the licensee participated in an educational program that maintained and increased his knowledge, skill and competency in real estate appraisal.

3. Credit toward the classroom hour requirement to satisfy the continuing education requirements shall be granted only where the length of the educational offering is at least two hours and the licensee participated in the full length of the program.

B. Instruction. Although continuing education offerings, ~~except the three-hour required course on recent developments in federal, state and local real estate appraisal law and regulation and the Uniform Standards of Professional Appraisal Practice~~, are not required to be taught by board certified instructors, ~~these offerings must meet the standards set forth in this section effective January 1, 2003, the Uniform Standards of Professional Appraisal Practice course must be taught by an instructor certified by the Appraiser Qualifications Board.~~

18 VAC 130-20-230. Procedures for awarding prelicense and continuing education credits.

A. Course credits shall be awarded only once for courses having substantially equivalent content.

B. Proof of completion of such course, seminar, workshop or conference may be in the form of a transcript, certificate, letter of completion or in any such written form as may be required by the board. All courses, seminars and workshops submitted for prelicensure and continuing education credit must indicate the number of classroom hours.

C. Information which may be requested by the board in order to further evaluate course content includes, but is not limited to, course descriptions, syllabi or textbook references.

D. All transcripts, certificates, letters of completion or similar documents submitted to verify completion of seminars, workshops or conferences for continuing education credit must indicate successful completion of the course, seminar, workshop or conference. Applicants must furnish written proof of having received a passing grade in all prelicense education courses submitted.

E. Credit may be awarded for prelicensure courses completed by challenge examination without classroom attendance, if such credit was granted by the course provider prior to July 1, 1990, and provided that the board is satisfied with the quality of the challenge examination that was administered by the course provider.

F. All courses seminars, workshops, or conferences, submitted for satisfaction of continuing education requirements must be satisfactory to the board.

G. Prelicense courses. A distance education course may be acceptable to meet the classroom hour requirement or its equivalent provided that the course is approved by the board and meets one of the following conditions:

1. The course is presented by an accredited (Commission on Colleges or a regional accreditation association) college or university that offers distance education programs in other disciplines; the learner successfully completes a written examination personally administered by an official approved by the college or university; and the course meets the requirements for real estate appraisal related courses established by the Appraiser Qualifications Board and is equivalent to the minimum of 15 classroom hours; or

2. The course has received the American Council on Education's Program on Noncollegiate Sponsored Instruction (PONS I) approval for college credit *or has been approved under the Appraiser Qualifications Board Course Approval Program*; the learner successfully completes a written examination personally administered by an official approved by the presenting entity; and the course meets the requirements for ~~real estate appraisal related courses~~ *qualifying education* established by the Appraiser Qualifications Board and is equivalent to the minimum of 15 classroom hours.

H. Continuing education. Distance education courses may be acceptable to meet the continuing education requirement provided that the course is approved by the state certification/licensing authority and meets one of the following conditions:

1. The course is presented to an organized group in an instructional setting with a person qualified and available to answer questions, provide information, and monitor student attendance, and is a minimum of two classroom hours and meets the requirements for continuing education courses established by the Appraiser Qualifications Board; or

2. The course either has been presented by an accredited (Commission on Colleges or regional accreditation association) college or university that offers distance education programs in other disciplines, or has received either the American Council on Education's Program on Non-collegiate Sponsored Instruction (ACE/PONS I) approval for college credit or the Appraiser Qualification Board's Course Approval Program, and the course meets the following requirements:

a. The course is equivalent to a minimum of two classroom hours in length and meets the requirements for real estate appraisal-related courses established by the Appraiser Qualifications Board; and

b. The student successfully completes a written examination proctored by an official approved by the presenting college or university or by the sponsoring organization consistent with the requirements of the course accreditation; or if a written examination is not required for accreditation, the student successfully

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completes the course mechanisms required for accreditation that demonstrate mastery and fluency (said mechanisms must be present in a course without an exam in order to be acceptable).

H. I. A teacher of appraisal courses may receive education credit for the classroom hour or hours taught. These credits shall be awarded only once for courses having substantially equivalent content.

NOTICE: The forms used in administering 18 VAC 130-20, Real Estate Appraiser Board Rules and Regulations, are not being published due to the number of pages; however, the name of each form is listed below. The forms are available for public inspection at the Real Estate Appraiser Board, 3600 W. Broad Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

FORMS

Real Estate Appraiser Board License Application, *40LIC (2/97 rev. 8/01)*.

Real Estate Appraiser Board Experience Log, *40EXP (2/97 rev. 3/00)*.

Real Estate Appraiser Board Trainee License Application ~~Form~~, *40TRLIC (2/97 rev. 3/00)*.

Real Estate Appraiser Board Trainee Supervisor Verification Form, 40TRSUP (eff. 3/00).

Real Estate Appraiser Business Registration Application (eff. 4/29/94).

Application for Approval of Appraisal Course Offering (eff. 9/6/94).

Application for Certification as an Appraisal Instructor (eff. 9/6/94).

VA.R. Doc. No. R01-168; Filed July 8, 2002, 11:26 a.m.

REAL ESTATE BOARD

Title of Regulation: 18 VAC 135-20. Virginia Real Estate Board Licensing Regulations (amending 18 VAC 135-20-10 through 18 VAC 135-20-80, 18 VAC 135-20-100 through 18 VAC 135-20-190, 18 VAC 135-20-220, 18 VAC 135-20-240 through 18 VAC 135-20-300, 18 VAC 135-20-330, 18 VAC 135-20-340, 18 VAC 135-20-360, 18 VAC 135-20-370, and 18 VAC 135-20-410; adding 18 VAC 135-20-105, 18 VAC 135-20-155, and 18 VAC 135-20-185; repealing 18 VAC 135-20-200, 18 VAC 135-20-230, and 18 VAC 135-20-320).

Statutory Authority: §§ 54.1-201 and 54.1-2105 of the Code of Virginia.

Public Hearing Date: September 11, 2002 - 1 p.m.

Public comments may be submitted until 5 p.m. on September 30, 2002.

(See Calendar of Events section for additional information)

Agency Contact: Karen W. O'Neal, Deputy Director, Real Estate Board, 3600 W. Broad Street, Richmond, VA 23230, telephone (804) 367-8537, FAX (804) 367-2475 or e-mail oneal@dpor.state.va.us.

Basis: Chapter 21 (54.1-2100 et seq.) of Title 54.1 of the Code of Virginia requires the licensure of real estate salespersons and brokers.

Section 54.1-2105 states that the board "may do all things necessary and convenient for carrying into effect the provisions of this chapter and may promulgate necessary regulations."

Purpose: The purpose of the proposal is to:

1. Impose less burdensome requirements for reciprocal applicants by moving the requirement to pass the state portion of the examination from the qualification provisions to the renewal provisions. This will permit the license to be issued more expeditiously while still protecting public health, safety and welfare by relying on the applicant's general knowledge from licensure in the original jurisdiction and further verifying specific knowledge prior to the first renewal.

2. Clarify requirements for applicants with criminal convictions. This will permit the processing of such applications to occur on a more timely basis and still protect public health, safety and welfare by referring those convictions to the board that require a decision in accordance with § 54.1-204 of the Code of Virginia.

3. Revise language regarding the supervision of branch offices to focus on the actual supervision provided rather than the physical location of the office. Changing trends in the office resulting from increased use of technology have made the current provisions obsolete. The proposed provisions are designed to increase protection of public health, safety and welfare by increasing supervision of all licensees resulting in increased compliance with all regulations.

4. Add clarifying language to the escrow provisions. The proposal contains more strict language clarifying that failure to maintain a balance in the escrow account sufficient to account for all funds designated to be held by the firm is a violation of the board's regulations. This will increase protection of public health, safety and welfare by giving the board increased authority over violations regarding funds that belong to the consumer.

5. Revise advertising provisions to incorporate Internet advertising. The purpose of the proposal is to address changing trends in the industry and protect public health, safety and welfare by ensuring that all consumers have full disclosure in all advertising.

6. Make clarifying changes that will result in easier administration and enforcement of the provisions. For example, Parts V and VI, Standards of Practice and Conduct have been combined.

Substance: The proposal (i) makes general clarifying changes throughout the regulations; (ii) imposes less burdensome requirements for reciprocal applicants by deleting the requirement to pass the Virginia real estate license law and

regulations portion of the examination upon licensure and requiring passage of the examination at the time of the first renewal (public protection is maintained because licensees have been practicing in other jurisdictions and have provided documentation regarding the status of their licenses, including any disciplinary action taken); (iii) clarifies language regarding applicants with criminal convictions, which will enable individuals with minor convictions to obtain a license without the delay of board review through the Administrative Process Act; (iv) revises language regarding the supervision of branch offices to focus on the actual supervision provided rather than the physical location of the office, which increases public protection by specifying in detail the type of supervision required to ensure compliance with applicable laws and regulations; (v) adds clarifying language to the escrow provisions (by adding language regarding the required balance in escrow accounts and the provision prohibiting the payment of commissions to licensees from the escrow account); (vi) adds language to the escrow provisions regarding the disbursement of escrow moneys in the event the transaction is not consummated (these provisions permit the individual to get funds due them in a more expedient manner while at the same time containing notice requirements to protect all parties); (vii) revises the advertising provisions for simplification purposes to incorporate Internet advertising that will provide increased public protection, and by adding specific disclosure requirements; and (viii) combines Parts V and VI, Standards of Practice and Conduct.

Issues: The advantages to the public and the Commonwealth resulting from the proposed regulation are to further protect consumers by:

1. Imposing less burdensome requirements for reciprocal applicants, which will decrease unlicensed activity thereby increasing public protection by bringing more individuals under the jurisdiction of the board and the Real Estate Transaction Recovery Act (§ 54.1-2112 et seq. of the Code of Virginia);
2. Adding requirements regarding supervision of licensees working out of branch offices;
3. Adding clarification to the requirements regarding funds belonging to the public that are held in escrow; and
4. Requiring increased disclosure in the advertising provisions to ensure the public is not harmed by on-line advertising.

No disadvantages to the public or the Commonwealth have been identified.

Department of Planning and Budget's Economic Impact Analysis: The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007 G of the Administrative Process Act and Executive Order Number 25 (98). Section 2.2-4007 G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with

the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the proposed regulation. The Real Estate Board is proposing to make amendments to the Virginia Real Estate Board Licensing Regulations following a periodic review of this regulation. Changes to the regulation, aside from general clarifying and editorial changes, include:

1. Allowing reciprocal applicants to pass the Virginia real estate license law and regulations examination before their first renewal period rather than prior to initial licensure;
2. Excluding certain minor misdemeanor criminal convictions from those that must be reviewed by the board prior to granting licensure;
3. Revising language regarding the supervision of branch offices to specify in detail the type of supervision required to ensure compliance with applicable laws and regulations;
4. Incorporating Internet advertising into the advertising provisions; and
5. Clarifying language regarding the maintenance and management of escrow accounts.

Estimated economic impact. Following a periodic review, the Real Estate Board is proposing several changes to update its regulations. The revised regulations will be consistent with current practices of the board and existing statutory requirements. New language is added to the branch office supervision and escrow account provisions to clarify these rules and should help to increase compliance. New procedures are also provided for the release of escrow money, which should significantly reduce the number of cases that require a court order. The changes proposed for granting licensure to reciprocal applicants and applicants with minor criminal convictions are likely to speed up the licensure process and make it less burdensome without any decrease in the level of protection provided.

The proposed changes do not impose any additional burdens on licensees or applicants for licensure and therefore should not have any significant economic costs. By providing less burdensome ways for individuals to obtain licensure and for licensees to release escrow money without compromising the level of protection provided, the proposed changes are likely to result in a net economic benefit.

Businesses and entities affected. As of January 1, 2002, there were approximately 50,000 individuals and firms licensed by the Real Estate Board.

Localities particularly affected. There proposed changes to this regulation are not expected to uniquely affect any particular localities.

Projected impact on employment. The proposed changes to this regulation are not expected to have any significant impact on employment in Virginia.

Effects on the use and value of private property. The proposed changes to this regulation are not expected to have any significant effect on the use and value of private property in Virginia.

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Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The agency concurs with the economic impact analysis performed by the Department of Planning and Budget.

Summary:

The proposed amendments make general clarifying changes; impose less burdensome requirements for reciprocal applicants; clarify language regarding applicants with criminal convictions; revise language regarding the supervision of branch offices to focus on the actual supervision provided rather than the physical location of the office; add clarifying language to the escrow provisions; revise the advertising provisions to incorporate Internet advertising; and combine Parts V and VI, Standards of Practice and Conduct.

18 VAC 135-20-10. Definitions.

The following words and terms when used in this chapter, unless a different meaning is provided or is plainly required by the context, shall have the following meanings:

"Active" means any broker or salesperson who is under the supervision of a principal or supervising broker of a firm or sole proprietor and who is performing those activities defined in §§ 54.1-2100 and 54.1-2101 of the Code of Virginia.

"Actively engaged" means active licensed employment by or affiliation as an independent contractor licensure with a licensed real estate firm or sole proprietorship in performing those activities as defined in §§ 54.1-2100 and 54.1-2101 of the Code of Virginia for an average of at least 40 hours per week. This requirement may be waived at the discretion of the board in accordance with § 54.1-2105 of the Code of Virginia.

"Associate broker" means any individual licensee of the board holding a broker's license other than one who has been designated as the principal broker.

"Client" means a person who has entered into a brokerage relationship with a licensee as defined by § 54.1-2130 of the Code of Virginia.

"Firm" means any sole proprietorship (nonbroker owner), partnership, association, limited liability company, or corporation, other than a sole proprietorship (principal broker owner), which is required by 18 VAC 135-20-20 B to obtain a separate brokerage firm license. The firm's licensed name may be any assumed or fictitious name properly filed with the board.

"Inactive status" refers to any broker or salesperson who is not under the supervision of a principal broker or supervising broker, who is not affiliated active with a firm or sole proprietorship and who is not performing any of the activities defined in §§ 54.1-2100 and 54.1-2101 of the Code of Virginia.

"Independent contractor" means a licensee who acts for or represents a client other than as a standard agent and whose duties and obligations are governed by a written contract between the licensee and the client.

"Licensee" means any person, partnership, association, limited liability company, or corporation holding a license issued by the Real Estate Board to act as a real estate broker

or real estate salesperson, brokers and salespersons as defined, respectively, in § Chapter 21 (§ 54.1-2100 and 54.1-2101 et seq.) of Title 54.1 of the Code of Virginia.

"Principal broker" means the individual broker who shall be designated by each firm to assure compliance with Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1 of the Code of Virginia, and this chapter, and to receive communications and notices from the board which may affect the firm or any licensee employed by or affiliated active with the firm. In the case of a sole proprietorship, the licensed broker who is the sole proprietor shall have the responsibilities of the principal broker. The principal broker shall have responsibility for the activities of the firm and all its licensees.

"Principal to a transaction" means a party to a real estate transaction in the capacity of including without limitation a seller, or buyer, lessee or lesser landlord or tenant, optionor or optionee, licensor or licensee. For the purposes of this chapter, the listing or selling broker, or both, are not by virtue of their brokerage relationship, principals to the transaction.

"Sole proprietor" means any individual, not a corporation, who is trading under the individual's name, or under an assumed or fictitious name pursuant to the provisions of Chapter 5 (§ 59.1-69 et seq.) of Title 59.1 of the Code of Virginia.

"Standard agent" means a licensee who acts for or represents a client in an agency relationship. A standard agent shall have the obligations as provided in Article 3 (§ 54.1-2130 et seq.) of Chapter 21 of Title 54.1 of the Code of Virginia.

"Supervising broker" means (i) the individual associate broker who shall be designated by the firm principal broker to supervise the activities of any one of its provision of real estate brokerage services by the associate brokers and salespersons assigned to branch offices or (ii) the broker, who may be the principal broker, designated by the principal broker to supervise a designated agent as stated in § 54.1-2130 of the Code of Virginia.

18 VAC 135-20-20. Necessity for license. (Refer to § 54.1-2106.1 of the Code of Virginia.)

A. Sole proprietor (principal broker owner). A real estate broker's license shall not be issued to an individual trading under an assumed or fictitious name, that is, a name other than the individual's full name, until only after the individual signs and acknowledges a certificate provided by the board, setting forth the name under which the business is to be organized and conducted, the address of the individual's residence, and the address of the individual's place of business. Each certificate must be attested by the clerk of court of the county or jurisdiction wherein the business is to be conducted. The attention of all applicants and licensees is directed to §§ 59.1-69 through 59.1-76 of the Code of Virginia.

B. Sole proprietor (nonbroker owner), partnership, association, limited liability company, or corporation. Every sole proprietor (nonbroker owner), partnership, association, limited liability company, or corporation must secure a real estate license for its brokerage firm before transacting real estate business. Application This license is separate and distinct from the individual broker license required of each partner, associate, manager of a limited liability company, and officer of a

corporation who is active in the firm's business. Each applicant for such license shall disclose, and the license shall be issued to, the name under which the applicant intends to do or does business and holds itself out to the public. This license is separate and distinct from the individual broker license required of each partner, associate, manager of a limited liability company, and officer of a corporation who is active in the brokerage business. Each applicant shall also disclose the business address of the firm. The board will consider the application of any partnership, association, corporation or limited liability company only after the entity is authorized to conduct business in accordance with §§ 59.1-69 through 59.1-76 of the Code of Virginia.

~~1. Sole proprietor (nonbroker owner). Each sole proprietor (nonbroker owner) acting as a real estate broker shall file with the board a certificate on a form provided by the board, which shall include the following information: the name, business address, and residential address of the owner; the name and style of the firm; and the address of the office of the real estate entity. Each change in the information contained on the certificate filed with the board must be evidenced by filing a new certificate with the board within 30 days after the change is effective.~~

~~2. Partnership. Each partnership acting as a real estate broker shall file with the board a certificate on a form provided by the board, which shall include the following information: the name, business address, and residential address of each person composing the partnership; the name and style of the firm; the address of the Virginia office of the firm; and the length of time for which it is to continue. Every change in the partnership must be evidenced by filing a new certificate with the board within 30 days after the change is effective.~~

~~3. Association. Each association acting as a real estate broker shall file with the board a certificate on a form provided by the board, which shall include the following information: the name, business address, and residential address of each person composing the association; the name and style of the firm; the address of the Virginia office of the firm; and the length of time for which it is to continue. Every change in the association must be evidenced by filing a new certificate with the board within 30 days after the change is effective.~~

~~4. Corporation. Each corporation acting as a real estate broker shall file with the board a certificate on a form provided by the board, which shall include the following information: the name, business address, and residential address of each officer of the corporation; the name of each licensed shareholder; the name and style of the corporation; the address of the Virginia office of the firm; and the corporation's place of business.~~

~~a. Every change of officers must be evidenced by filing a new certificate with the board within 30 days after the change is effective.~~

~~b. The board will not consider the application of any corporation or its officers, employees, or associates until the corporation is authorized to do business in Virginia.~~

~~5. Limited liability company. Each limited liability company acting as a real estate broker shall file with the board a certificate on a form provided by the board, which shall include the following information: the name, business address, and residential address of each licensed manager or member of the company; the name and style of the company; and the address of the Virginia office of the company.~~

~~a. Every change of officers must be evidenced by filing a new certificate with the board within 30 days after the change is effective.~~

~~b. The board will not consider the application of any limited liability company or its officers, employees, or associates until the limited liability company is authorized to do business in Virginia.~~

C. Branch office license. If a real estate broker maintains more than one place of business within the state, a branch office license shall be issued for each branch office place of business maintained. Application for the license shall be made on forms provided by the board and shall reveal the name of the firm, the location of the branch office, and the name of the supervising broker for that branch office. The branch office license shall be maintained at the branch office location.

18 VAC 135-20-30. Qualifications for licensure.

Every applicant to the Real Estate Board for an individual salesperson's or broker's license shall have the following qualifications:

1. The applicant shall have a good reputation for honesty, truthfulness, and fair dealing, and be competent to transact the business of a real estate broker or a real estate salesperson in such a manner as to safeguard the interests of the public.

2. The applicant shall meet the current educational requirements by achieving a passing grade in all required courses of § 54.1-2105 of the Code of Virginia prior to the time the applicant sits for the licensing examination and applies for licensure.

3. The applicant shall be in good standing as a licensed real estate broker or salesperson in every jurisdiction where licensed and the applicant shall not have had a license as a real estate broker or real estate salesperson which was suspended, revoked or surrendered in connection with a disciplinary action or which has been the subject of discipline in any jurisdiction prior to applying for licensure in Virginia.

4. The applicant shall not have been convicted or found guilty of any crime directly relating to the practice of real estate, regardless of the manner of adjudication, in any jurisdiction of the United States of a misdemeanor involving moral turpitude, sexual offense, drug distribution or physical injury, or any felony, there being no appeal pending therefrom or the time for appeal having elapsed. Except for misdemeanor convictions for being drunk in public, driving under the influence, traffic violations, or any misdemeanor conviction that occurred five or more years prior to the date of application, with no subsequent convictions, all criminal convictions shall be considered as part of the totality of the

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circumstances of each applicant. Review of prior criminal convictions shall be subject to the requirements of § 54.1-204 of the Code of Virginia. Neither shall the applicant have been found to have violated the fair housing laws of any jurisdiction. Any plea of nolo contendere shall be considered a conviction for purposes of this subdivision. The record of a conviction authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such conviction or guilt.

5. The applicant shall be at least 18 years old.

6. The applicant, within 12 months prior to making *complete* application for a license, shall have passed a written examination provided by the board or by a testing service acting on behalf of the board. ~~Complete applications must be received within the 12-month period.~~

7. The applicant shall follow all ~~rules procedures~~ established by the board with regard to conduct at the examination. ~~Such rules shall include any written instructions communicated prior to the examination date and any instructions communicated at the site, either written or oral, on the date of the examination.~~ Failure to comply with all ~~rules procedures~~ established by the board with regard to conduct at the examination ~~shall~~ *may* be grounds for denial of application.

8. Applicants for licensure who do not meet the requirements set forth in subdivisions 3 and 4 of this section may be approved for licensure following consideration by the board in accordance with § 54.1-204 of the Code of Virginia.

18 VAC 135-20-40. Additional qualifications for brokers.

An applicant for an individual license as a real estate broker shall meet the following requirements in addition to those set forth in 18 VAC 135-20-30:

1. The applicant shall meet the current educational requirements of § 54.1-2105 of the Code of Virginia.

2. The applicant shall have been actively engaged as defined in 18 VAC 135-20-10 as a real estate salesperson for a period of 36 of the 48 months immediately preceding application. *This requirement may be waived at the discretion of the board in accordance with § 54.1-2105 of the Code of Virginia.*

18 VAC 135-20-45. Additional qualifications for salesperson's or associate broker's license as a business entity.

An applicant for a salesperson's license as a business entity shall meet the following requirements in addition to those set forth in 18 VAC 135-20-30:

1. Every owner or officer who actively participates in the real estate business shall hold a license as a salesperson or associate broker. *The business entity license does not replace the individual license. More than one licensee may be a participant of the business entity.*

2. ~~There shall be no restrictions on the name of the business entity when two or more licensees are owners or~~

~~officers.~~ When one licensee is the owner or officer, the business entity shall be named in accordance with § 54.1-2106.1 C of the Code of Virginia.

3. ~~Partnership.~~ Each partnership shall file with the board a ~~certificate on a form provided by the board, which shall include the following information: the name, business address, and residential address of each person composing the partnership; the name and style of the firm; the address of the Virginia office of the firm; and the length of time for which it is to continue.~~ Every change in the partnership must be evidenced by filing a new certificate with the board within 30 days after the change is effective.

4. ~~Association.~~ Each association shall file with the board a ~~certificate on a form provided by the board, which shall include the following information: the name, business address, and residential address of each person composing the association; the name and style of the firm; the address of the Virginia office of the firm; and the length of time for which it is to continue.~~ Every change in the association must be evidenced by filing a new certificate with the board within 30 days after the change is effective.

5. ~~Corporation.~~ Each corporation shall file with the board a ~~certificate on a form provided by the board, which shall include the following information: the name, business address, and residential address of each officer of the corporation; the name of each licensed shareholder; the name and style of the corporation; the address of the Virginia office of the firm; and the corporation's place of business.~~

~~a. Every change of officers must be evidenced by filing a new certificate with the board within 30 days after the change is effective.~~

~~b. 3. The board will not consider the application of any partnership, association, corporation or its officers, employees, or associates until or limited liability company only after the corporation entity is authorized to do business in accordance with §§ 59.1-69 through 59.1-76 of the Code of Virginia.~~

6. ~~Limited liability company.~~ Each limited liability company shall file with the board a ~~certificate on a form provided by the board, which shall include the following information: the name, business address, and residential address of each licensed manager or member of the company; the name and style of the company; and the address of the Virginia office of the company.~~

~~a. Every change of officers must be evidenced by filing a new certificate with the board within 30 days after the change is effective.~~

~~b. The board will not consider the application of any limited liability company or its officers, employees, or associates until the limited liability company is authorized to do business in Virginia.~~

18 VAC 135-20-50. Concurrent licenses.

Concurrent licenses shall be issued by the board to brokers active in more than one ~~separate legal entity firm~~ upon receipt of a concurrent license form and written affidavits stating that

written notice of the applicant's concurrent licensure status has been provided to the principal broker of each firm with which the applicant is and will be associated. Payment is required for each license. A concurrent license will not be issued to an individual applying to be associated with a firm if that individual has an expired license associated with the same firm and the expired license may be reinstated.

18 VAC 135-20-60. Qualifications for licensure by reciprocity.

~~A. Every applicant to the Real Estate Board for a license by reciprocity shall have the qualifications provided in subsection B of this section, except that subdivision B 6 of this section shall only be applicable for salesperson applicants.~~

~~B. An individual who is currently licensed as a real estate salesperson or broker in another jurisdiction may obtain a Virginia real estate license by meeting the following requirements:~~

- ~~1. The applicant shall be at least 18 years of age.~~
- ~~2. The applicant shall have received the salesperson's or broker's license by virtue of having passed in the jurisdiction of licensure a written examination deemed to be substantially equivalent to the Virginia examination.~~
- ~~3. The applicant, within 12 months prior to making application for a license, shall have passed a written examination provided by the board or a testing service acting on behalf of the board covering Virginia real estate license law and the regulations of the Real Estate Board. Complete applications must be received within the 12-month period sign an affidavit stating that he has read and understands the provisions of this chapter and Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1 of the Code of Virginia.~~
- ~~4. The applicant shall follow all rules procedures established by the board with regard to conduct at the examination. Such rules shall include any written instructions communicated prior to the examination date and any instructions communicated at the site, either written or oral, on the date of the examination. Failure to comply with all rules procedures established by the board with regard to conduct at the examination shall may be grounds for denial of application.~~
- ~~5. The applicant shall be in good standing as a licensed real estate broker or salesperson in every jurisdiction where licensed and the applicant shall not have had a license as a real estate broker or real estate salesperson which was suspended, revoked, or surrendered in connection with a disciplinary action or which has been the subject of discipline in any jurisdiction prior to applying for licensure in Virginia.~~
- ~~6. At the time of application for a salesperson's license, the applicant must have been actively engaged in real estate as defined by 18 VAC 135-20-10 for 12 of the preceding 36 months or have met educational requirements that are substantially equivalent to those required in Virginia. At the time of application for a broker's license, the applicant must have been actively engaged as defined by 18 VAC 135-20-10 for 36 of the preceding 48 months. These requirements may~~

~~be waived at the discretion of the board in accordance with § 54.1-2105 of the Code of Virginia.~~

7. The applicant shall have a good reputation for honesty, truthfulness, and fair dealing, and be competent to transact the business of a real estate salesperson or broker in such a manner as to safeguard the interests of the public.

8. The applicant shall not have been convicted or found guilty of any crime directly relating to the practice of real estate, regardless of the manner of adjudication, in any jurisdiction of a misdemeanor involving moral turpitude, sexual offense, drug distribution or physical injury, or any felony there being no appeal pending therefrom or the time for appeal having elapsed the United States. Except for misdemeanor convictions for being drunk in public, driving under the influence, traffic violations, or any misdemeanor conviction that occurred five or more years prior to the date of application, with no subsequent convictions, all criminal convictions shall be considered as part of the totality of the circumstances of each applicant. Review of prior criminal convictions shall be subject to the requirements of § 54.1-204 of the Code of Virginia. Neither shall the applicant have been found to have violated the fair housing laws of any jurisdiction. Any plea of nolo contendere shall be considered a conviction for purposes of this subdivision. The record of a conviction authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such conviction or guilt.

9. Applicants for licensure who do not meet the requirements set forth in subdivisions 5 and 8 of this subsection may be approved for licensure following consideration by the board in accordance with § 54.1-204 of the Code of Virginia.

~~C. Additional qualifications for reciprocal licensure as a broker. An individual who is currently licensed as a real estate broker in another jurisdiction may obtain a Virginia real estate broker's license by meeting the requirement set out in subsection D of this section in addition to those set forth in subdivisions B 1 through B 5 and B 7 through B 9 of this section.~~

~~D. The applicant shall have been licensed as a real estate broker and actively engaged as a real estate broker or salesperson for at least 36 of the 48 months immediately prior to making application in Virginia. (See 18 VAC 135-20-10 for the definition of "actively engaged.")~~

18 VAC 135-20-70. Activation or transfer of license.

A. Any inactive licensee may affiliate activate that license with a licensed real estate firm or sole proprietorship by completing an activate form prescribed by the board. Continuing education pursuant to § 54.1-2105 of the Code of Virginia shall be completed within two years prior to activation of a license. ~~B. Any licensee who has not been actively licensed active with a licensed real estate firm or sole proprietorship for a period of greater than three years shall be required to meet the existing prelicense educational requirements for a salesperson or broker in effect at the time the license activate form for issuance of such license is filed with the board.~~

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B. Any licensee may transfer from one licensed real estate firm or sole proprietorship to another by completing and submitting to the board a transfer application and the fee as set forth in 18 VAC 135-20-80.

18 VAC 135-20-80. Application fees.

A. All application fees for licenses are nonrefundable and the date of receipt by the board or its agent is the date which will be used to determine whether it is on time.

B. Application fees are as follows:

Salesperson by education and examination	\$75
Salesperson by reciprocity	\$64
Individual license— Salesperson's or associate broker's license as a business entity	\$75
Broker by education and examination	\$85
Broker by reciprocity	\$85
Broker concurrent license	\$65
Firm license	\$125
Branch office license	\$65
Transfer application	\$35
Activate application	\$35
Bad check penalty	\$25

C. The fee for examination or reexamination is subject to contracted charges to the board by an outside vendor. These contracts are competitively negotiated and bargained for in compliance with the Virginia Public Procurement Act (§ 11-35 et seq. of the Code of Virginia). Fees may be adjusted and charged to the candidate in accordance with these contracts. The fee shall not exceed \$90 per candidate.

18 VAC 135-20-100. Qualification for renewal; continuing education requirements.

~~A.~~ As a condition of renewal, and pursuant to § 54.1-2105 of the Code of Virginia, all active brokers and salespersons, resident or nonresident, except those called to active duty in the Armed Forces of the United States, shall be required to satisfactorily complete a course or courses of not less than a total of eight classroom, correspondence, or other distance learning instruction hours during each licensing term. Active licensees called to active duty in the Armed Forces of the United States may complete these courses within six months of their release from active duty. Inactive brokers and salespersons are not required to complete the continuing education course as a condition of renewal (see 18 VAC 135-20-70, Activation of license).

1. Providers shall be those as defined in 18 VAC 135-20-350.

2. ~~Prior to January 1, 1999, three of the eight required hours shall include training in fair housing laws and state real estate laws and regulations. After January 1, 1999, Four of the eight required hours shall include training in fair housing laws, state real estate laws and regulations, and ethics and standards of conduct. If the licensee submits a notarized affidavit to the board which certifies that he does not practice residential real estate brokerage, residential management or residential leasing and shall not do so during the licensing term, training in fair housing shall not be required; instead such licensee shall receive training in other applicable federal and state discrimination laws and~~

regulations. The remaining hours shall be on subjects from the following list:

- a. Property rights;
- b. Contracts;
- c. Deeds;
- d. Mortgages and deeds of trust;
- e. Types of mortgages;
- f. Leases;
- g. Liens;
- h. Real property and title insurance;
- i. Investment;
- j. Taxes in real estate;
- k. Real estate financing;
- l. Brokerage and agency contract responsibilities;
- m. Real property management;
- n. Search, examination and registration of title;
- o. Title closing;
- p. Appraisal of real property;
- q. Planning subdivision developments and condominiums;
- r. Regulatory statutes;
- s. Housing legislation;
- t. Fair housing;
- u. Real Estate Board regulations;
- v. Land use;
- w. Business law;
- x. Real estate economics;
- y. Real estate investments;
- z. Federal real estate law;
- aa. Commercial real estate;
- bb. Americans With Disabilities Act;
- cc. Environmental issues impacting real estate;
- dd. Building codes and design;
- ee. Local laws and zoning;
- ff. Escrow requirements; and
- gg. Ethics and standards of conduct; and
- hh. Common interest ownership.

3. ~~Prior to January 1, 1999, licensees holding licenses in other jurisdictions must complete three hours which shall include fair housing laws and state real estate laws and regulations and may substitute education completed in their~~

jurisdiction for the remaining hours required by subdivision 2 of this subsection. After January 1, 1999, Licensees holding licenses in other jurisdictions must complete four hours which shall include fair housing laws, state real estate laws and regulations and ethics and standards of conduct and may substitute education completed in their jurisdiction for the remaining hours required by subdivision 2 of this subsection.

4. The board may approve additional subjects at its discretion and in accordance with § 54.1-2105 of the Code of Virginia.

5. Credit for continuing education course completion is given for each class hour/clock hour as defined in 18 VAC 135-20-350.

6. Licensees are responsible for retaining for three years and providing proof of continuing education. Proof of course completion shall be made on a form prescribed by the board. Failure to provide course completion certification as directed by the board will result in the license not being renewed and/or disciplinary action pursuant to this chapter.

7. Instructors who are also licensees of the board may earn continuing education credit for teaching continuing education courses.

~~B. Applicants for renewal of a license shall meet the standards for entry as set forth in subdivisions 1, 3, and 4 of 18 VAC 135-20-30.~~

~~C. The board may deny renewal of a license if the applicant has not met the terms of an agreement for licensure or not fully paid monetary penalties, satisfied sanctions and paid costs imposed by the board, plus any accrued interest.~~

18 VAC 135-20-105. Additional qualifications for renewal of a reciprocal license.

In addition to the requirements set forth in 18 VAC 135-20-100, all licensees who obtained their license by reciprocity in accordance with 18 VAC 135-20-60 must pass a written examination provided by the board or a testing service acting on behalf of the board covering Virginia real estate license law and regulations of the Real Estate Board.

18 VAC 135-20-110. Procedures for renewal.

~~A. The board will mail a renewal application form to the licensee at the last known home address. The board will mail a firm renewal notice to the business address of the firm. These notices shall outline the procedures for renewal. The board will notify the firm 30 days after the expiration of the licenses of salespersons and brokers associated with the firm. Failure to receive these notices does not relieve the licensee of the obligation to renew.~~

~~B. Prior to the expiration date shown on the license, each licensee desiring to renew the license shall return to the board the renewal application forms and the appropriate fee as outlined in 18 VAC 135-20-120. Failure to receive notices from the board regarding license renewal does not relieve the licensee of the obligation to renew.~~

18 VAC 135-20-120. Fees for renewal.

A. All fees for renewals are nonrefundable, and the date of receipt by the board or its agent is the date which will be used to determine whether it is on time.

B. Renewal fees are as follows:

Salesperson	\$39
Individual license — Salesperson's or associate broker's license as a business entity	\$39
Broker	\$42
Concurrent broker	\$42
Firm	\$65
Branch office	\$38

18 VAC 135-20-130. Board discretion to deny renewal.

The board may deny renewal of a license for (i) the same reasons as it may refuse initial licensure or discipline a current licensee; (ii) *failure to meet the terms of an agreement for licensure or other board order*; or (iii) *failure to fully pay monetary penalties and costs imposed by the board, plus any accrued interest.*

18 VAC 135-20-140. Failure to renew; reinstatement required.

A. All applicants for reinstatement must meet all requirements set forth in 18 VAC 135-20-100 ~~A and B~~. Applicants for reinstatement of an active license must have completed the continuing education requirement in order to reinstate the license. Applicants for reinstatement of an inactive license are not required to complete the continuing education requirement for license reinstatement.

B. If the requirements for renewal of a license, including receipt of the fee by the board, are not completed by the licensee within 30 days of the expiration date noted on the license, a reinstatement fee of \$85 is required.

C. A license may be reinstated for up to one year following the expiration date with payment of the reinstatement fee. After one year, the license may not be reinstated under any circumstances and the applicant must meet all current educational and examination requirements and apply as a new applicant.

D. Any real estate activity conducted subsequent to the expiration date may constitute unlicensed activity and be subject to prosecution under Chapter 1 (§ 54.1-100 et seq.) of Title 54.1 of the Code of Virginia.

18 VAC 135-20-150. Board discretion to deny reinstatement.

~~A. The board may deny reinstatement of a license if the applicant has not met the terms of an agreement for licensure or not fully paid monetary penalties, satisfied sanctions and paid costs imposed by the board, plus any accrued interest.~~

~~B. The board may deny reinstatement of a license for (i) the same reasons as it may refuse initial licensure or discipline a current licensee; (ii) failure to meet the terms of an agreement for licensure or other board order; or (iii) failure to fully pay monetary penalties and costs imposed by the board, plus any accrued interest.~~

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PART V. STANDARDS OF PRACTICE AND CONDUCT.

18 VAC 135-20-155. Grounds for disciplinary action.

The board has the power to fine any licensee and to suspend or revoke any license issued under the provisions of Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1 of the Code of Virginia and this chapter where the licensee has been found to have violated or cooperated with others in violating any provision of Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1 of the Code of Virginia, Chapter 1.3 (§ 6.1-2.19 et seq.) of Title 6.1 of the Code of Virginia, or any regulation of the board. Any licensee failing to comply with the provisions of Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1 of the Code of Virginia or the regulations of the Real Estate Board in performing any acts covered by §§ 54.1-2100 and 54.1-2101 of the Code of Virginia may be charged with improper dealings, regardless of whether those acts are in the licensee's personal capacity or in his capacity as a real estate licensee.

18 VAC 135-20-160. Place of business.

A. Within the meaning and intent of § 54.1-2110 of the Code of Virginia, a place of business shall be an office where:

1. The principal broker, either through his own efforts or through the efforts of his employees or associates, regularly transacts the business of a real estate broker as defined in § 54.1-2100 of the Code of Virginia; and
2. The principal broker and his employees or associates can receive business calls and direct business calls to be made.

B. No place of business shall be in a residence unless it is separate and distinct from the living quarters of the residence and is accessible by the public.

C. *Every principal broker shall have readily available to the public in the main place of business the firm license, the principal broker license and the license of every salesperson and broker active with the firm. The branch office license and a roster of every salesperson or broker assigned to the branch office shall be available to the public in each branch office.*

D. *Each place of business and each branch office shall be supervised and personally managed by an on-premises real estate a supervising broker who shall supervise only that office. The supervising broker shall exercise reasonable and adequate supervision of the provision of real estate brokerage services by associate brokers and salespersons assigned to the branch office. Factors to be considered in determining whether the supervision is reasonable and adequate include, but are not limited to, the following:*

1. *The availability of the supervising broker to all licensees under the supervision of the broker to review and discuss contract provisions, brokerage agreement provisions and advertising;*
2. *The availability of training and written procedures and policies which provide, without limitation, clear guidance in the following areas:*
 - a. *Proper handling of escrow deposits;*

b. Compliance with federal and state fair housing laws and regulations if the firm engages in residential brokerage, residential leasing, or residential property management;

c. Advertising;

d. Negotiating and drafting of contracts, leases and brokerage agreements;

e. Use of unlicensed individuals;

f. Agency relationships;

g. Distribution of information on new or changed statutory or regulatory requirements;

h. Disclosure of matters relating to the condition of the property.

i. Such other matters as necessary to assure the competence of licensees to comply with this chapter and Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1 of the Code of Virginia.

~~D. Every individual, partnership, association, limited liability company, or corporation acting as a real estate broker may display signage on the outside of each place of business maintained in the Commonwealth for the purpose of transacting business as a real estate broker. If displayed, the sign shall state the name of such individual, partnership, association, limited liability company, or corporation, as set forth in the license issued by the board, and contain the words "real estate," "realty" or other words or phrases designating a member of a generally recognized association or organization of real estate brokers, whichever is applicable.~~

~~E. Every principal broker shall have readily available in the main place of business the firm license, the principal broker license and the license of every salesperson and broker associated with or employed by the entity or firm. The licenses shall be displayed together, not individually, in such a manner that the public can readily determine the names of the licensees. The branch office license and a roster of every salesperson and broker assigned to the branch office shall be displayed in the branch office location.~~

~~F. Notice in writing, accompanied by all the current licenses, shall be given to the board in the event of any change of business name or location. Such notice shall be mailed to the board within 10 calendar days of the change of name or location, whereupon the board shall reissue the licenses for the unexpired period.~~

18 VAC 135-20-170. Maintenance of licenses.

A. *Name and address.*

1. *Salespersons and individual brokers shall at all times keep the board informed of their current name and home address and. Changes of name and address must be reported to the board in writing within 30 calendar days of such change. The board shall not be responsible for the licensee's failure to receive notices, communications and correspondence caused by the licensee's failure to promptly notify the board of any change of address. A licensee shall notify the board in a written form acceptable to the board*

~~within 30 calendar days of any change in the licensee's legal name. A licensee may use a professional name other than a legal name if that professional name is filed with the board prior to its use.~~

~~B. 2. Salespersons and brokers shall only be issued a license only to the place of business of the sole proprietorship or firm with which the salesperson or broker is affiliated or at which such licensee is employed active. The license shall be issued after the sole proprietor or principal broker files a written request on a form supplied by the board.~~

~~3. Principal brokers must at all times keep the board informed of their current firm and branch office addresses and changes of address must be reported to the board in writing within 30 calendar days of such change. A physical address is required. A post office box will not be accepted.~~

~~C. Salespersons and brokers on inactive status shall receive written acknowledgment of payment from the board at the time they renew their license, but no license shall be issued since they are not affiliated with a sole proprietorship or firm.~~

B. Discharge or termination of active status.

~~D. 1. When any salesperson or broker is discharged or in any way terminates his employment or affiliation or changes active status as a principal or associate broker with a sole proprietorship or firm, it shall be the duty of the sole proprietor or principal broker to return the license by certified mail to the board so that it is received within 10 calendar days of the date of termination or status change. The sole proprietor or principal broker shall indicate on the license the date of termination, and shall sign the license before returning it.~~

~~2. When any principal broker is discharged or in any way terminates his active status with a firm, it shall be the duty of the firm to notify the board and return the license by certified mail to the board within three business days of termination or status change. The firm shall indicate on the license the date of termination, and shall sign the license before returning it. See § 54.1-2109 of the Code of Virginia for termination relating to the death or disability of the principal broker.~~

~~E. The board, upon receipt of a transfer application or request for placement of a license on inactive status from a salesperson or associate broker, will notify the former principal broker of the licensee's change of affiliation or status at the firm's address of record. If the license has not been received by the board by the date on which above notification is issued, then it shall be the duty of the former principal broker to return the license by certified mail to the board so that it is received within 10 calendar days of the date of the above notification.~~

~~F. All certificates of licensure in any form are the property of the Real Estate Board. Upon termination of a licensee, closing of a firm, death of a licensee, change of license status, change of licensee name or address or both, such licenses must be returned with proper instruction to the board within 10 calendar days.~~

18 VAC 135-20-180. Maintenance and management of escrow accounts and financial records.

A. Maintenance of escrow accounts.

1. If money is to be held in escrow, each firm or sole proprietorship shall maintain in the name by which it is licensed one or more federally insured separate escrow accounts in a federally insured depository in Virginia into which all down payments, earnest money deposits, money received upon final settlement, rental payments, rental security deposits, money advanced by a buyer or seller for the payment of expenses in connection with the closing of real estate transactions, money advanced by the broker's client or expended on behalf of the client, or other escrow funds received by him or his associates on behalf of his client or any other person shall be deposited unless all principals to the transaction have agreed otherwise in writing. ~~The balance in the escrow accounts shall be sufficient at all times to account for all funds that are designated to be held by the firm or sole proprietorship.~~ The principal broker shall be held responsible for these accounts. The supervising broker and any other licensee with escrow account authority may be held responsible for these accounts. All such accounts, checks and bank statements shall be labeled "escrow" and the account(s) shall be designated as "escrow" accounts with the financial institution where such accounts are established.

2. Funds to be deposited in the escrow account ~~will necessarily~~ may include moneys which shall ultimately belong to the licensee, but such moneys shall be separately identified in the escrow account records and shall be paid to the firm by a check drawn on the escrow account when the funds become due to the licensee. ~~Funds in an escrow account shall not be paid directly to the licensees of the firm.~~ The fact that an escrow account contains money which may ultimately belong to the licensee does not constitute "commingling of funds" as set forth by subdivision 5 C 2 of ~~18 VAC 135-20-320 this section~~, provided that there are periodic withdrawals of said funds at intervals of not more than six months, and that the licensee can at all times accurately identify the total funds in that account which belong to the licensee and the firm.

3. If escrow funds are used to purchase a certificate of deposit, the pledging or hypothecation of such certificate, or the absence of the original certificate from the direct control of the principal or supervising broker, shall constitute commingling as prohibited by ~~18 VAC 135-20-320 5 subdivision C 2 of this section.~~

B. Disbursement of funds from escrow accounts.

1. a. Purchase transactions. Upon the ratification of a contract, earnest money deposits and down payments received by the principal broker or supervising broker or his associates must be placed in an escrow account by the end of the fifth business banking day following ratification, unless otherwise agreed to in writing ~~by the parties to the transaction~~, and shall remain in that account until the transaction has been consummated or terminated. In the event the transaction is not consummated (*nonconsummation*), the principal broker or

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supervising broker shall hold such funds in escrow until (i) all principals to the transaction have agreed in writing as to their disposition, or (ii) a court of competent jurisdiction orders such disbursement of the funds, or (iii) the broker can pay the funds to the principal to the transaction who is entitled to receive them in accordance with the clear and explicit terms of the contract which established the deposit. In the latter event, prior to disbursement, the broker shall give written notice to ~~each~~ *the* principal to the transaction *not to receive the deposit* by either (i) hand delivery receipted for by the addressee, or (ii) by ~~regular~~ *and certified mail return receipt requested, with a copy to the other party*, that this payment will be made unless a written protest from that principal to the transaction is received by the broker within 30 days of the *hand* delivery or mailing, as appropriate, of that notice. *If the notice is sent within 90 days of the date of nonconsummation, the broker may send the notice by receiptable e-mail or facsimile if such e-mail address or facsimile information is set forth in the contract or otherwise provided by the recipient. In all events, the broker may send the notice to the notice address, if any, set forth in the contract. If the contract does not contain a notice address and the broker does not have another address for the recipient of the notice, the broker may send it to the last known address of the recipient. No broker shall be required to make a determination as to the party entitled to receive the earnest money deposit. The broker shall not be deemed to violate any obligation to any client by virtue of making such a determination.* A broker who has carried out the above procedure shall be construed to have fulfilled the requirements of this chapter.

b. Lease transactions: security deposits. Any security deposit held by a firm or sole proprietorship shall be placed in an escrow account by the end of the fifth business banking day following receipt, unless otherwise agreed to in writing *by the principals to the transaction*. Each such security deposit shall be treated in accordance with the security deposit provisions of the Virginia Residential Landlord and Tenant Act, Chapter 13.2 (§ 55-248.2 et seq.) of Title 55 of the Code of Virginia, unless exempted therefrom, in which case the terms of the lease or other applicable law shall control. Notwithstanding anything in this section to the contrary, unless the landlord has otherwise become entitled to receive the security deposit or a portion thereof, the security deposit shall not be removed from an escrow account required by the lease without the written consent of the tenant.

c. Lease transactions: rents or escrow fund advances. Unless otherwise agreed in writing by all principals to the transaction, all rents and other money paid to the licensee in connection with the lease shall be placed in an escrow account by the end of the fifth business banking day following receipt, unless otherwise agreed to in writing *by the principals to the transaction*, and remain in that account until paid in accordance with the terms of the lease and the property management agreement, as applicable.

2. a. Purchase transactions. Unless otherwise agreed in writing by all principals to the transaction, a licensee shall

not be entitled to any part of the earnest money deposit or to any other money paid to the licensee in connection with any real estate transaction as part of the licensee's commission until the transaction has been consummated.

b. Lease transactions. Unless otherwise agreed in writing by the principals to the lease or property management agreement, as applicable, a licensee shall not be entitled to any part of the security deposit or to any other money paid to the licensee in connection with any real estate lease as part of the licensee's commission except in accordance with the terms of the lease or the property management agreement, as applicable. Notwithstanding anything in this section to the contrary, unless the landlord has otherwise become entitled to receive the security deposit or a portion thereof, the security deposit shall not be removed from an escrow account required by the lease without the written consent of the tenant.

3. On funds placed in an account bearing interest, written disclosure in the contract of sale or lease at the time of contract or lease writing shall be made to the principals to the transaction regarding the disbursement of interest.

4. A licensee shall not disburse or cause to be disbursed moneys from an escrow or property management escrow account unless sufficient money is on deposit in that account to the credit of the individual client or property involved.

5. Unless otherwise agreed in writing by all principals to the transaction, expenses incidental to closing a transaction, e.g., fees for appraisal, insurance, credit report, etc., shall not be deducted from a deposit or down payment.

C. *Actions including improper maintenance of escrow funds include:*

1. *Accepting any note, nonnegotiable instrument, or anything of value not readily negotiable, as a deposit on a contract, offer to purchase, or lease, without acknowledging its acceptance in the agreement;*

2. *Commingling the funds of any person by a principal or supervising broker or his employees or associates or any licensee with his own funds, or those of his corporation, firm, or association;*

3. *Failure to deposit escrow funds in an account or accounts designated to receive only such funds as required by subdivision A 1 of this section;*

4. *Failure to have sufficient balances in an escrow account or accounts at all times for all funds that are designated to be held by the firm or sole proprietorship as required by this chapter; and*

5. *Failure, as principal broker, to report to the board within three business days instances where the principal broker reasonably believes the improper conduct of a licensee has caused noncompliance with subdivision 4 of this subsection.*

G. 18 VAC 135-20-185. Maintenance and management of financial records.

4- A. A complete record of financial transactions conducted under authority of the principal broker's Virginia license shall

be maintained in the principal broker's place of business, or in a designated branch office. When the principal broker's office is located outside of Virginia and the firm has a branch office in Virginia, a copy of these records shall be maintained in the Virginia office. These records shall show, in addition to any other requirements of the regulations, the following information: from whom money was received; the date of receipt; the place of deposit; the date of deposit; and, after the transaction has been completed, the final disposition of the funds.

2. B. The principal broker shall maintain a bookkeeping or recordkeeping system which shall accurately and clearly disclose full compliance with the requirements outlined in this section. Accounting records which are in sufficient detail to provide necessary information to determine such compliance shall be maintained.

C. Actions constituting improper recordkeeping include:

1. Failing, as a principal or supervising broker, to retain for a period of three years from the date of the closing or ratification, if the transaction fails to close, a complete and legible copy of each disclosure of a brokerage relationship, and each executed contract, agreement, and closing statement related to a real estate transaction, in the broker's control or possession, unless prohibited by law;

2. Having received moneys on behalf of others and failed to maintain a complete and accurate record of such receipts and their disbursements for a period of three years from the date of the closing or termination of a lease or conclusion of the licensee's involvement in the lease; and

3. Failing, within a reasonable time, to account for or to remit any moneys coming into a licensee's possession which belong to others;

18 VAC 135-20-190. Advertising by licensees.

~~A. The name under which the broker does business and the manner in which the broker advertises shall not imply that the property listed or marketed by the broker for others is "for sale by owner." A broker shall not advertise in any newspaper, periodical, or sign to sell, buy, exchange, rent, or lease property in a manner indicating that the offer to sell, buy, exchange, rent, or lease such property is being made by a person not licensed as a real estate broker. No advertisement shall be inserted in any publication where only a post office box number, telephone number, or street address appears. Every broker, when advertising real estate in any newspaper or periodical, shall affirmatively and unmistakably indicate that the party advertising is a real estate broker.~~

B. A. Definitions. The following definitions apply unless a different meaning is plainly required by the context:

"Advertising" means any communication, whether oral or written, between a licensee or an entity acting on behalf of one or more licensees and any other person or business entity. It shall include, but is not limited to, telephonic communications, insignias, business cards, advertisements, telephone directory, listing agreements, contracts of sale, billboards, signs, letterheads, as well as radio, television, magazine, newspaper, and internet advertisements *all forms of representation, promotion and solicitation disseminated in any*

manner and by any means of communication to consumers for any purpose related to licensed real estate activity.

"Disclosure" in the context of on-line advertising means (i) advertising that contains the firm's licensed name, the city and state in which the firm's main office is located and the jurisdiction in which the firm holds a license or (ii) advertising that contains the licensee name, the name of the firm with which the licensee is active, the city and state in which the licensee's office is located and the jurisdiction in which the licensee holds a license. "Disclosure" in the context of other advertising means (i) advertising by the firm that contains the firm's licensed name and the firm's address or (ii) advertising by an affiliated licensee that contains the licensee's name, the name of the firm with which the licensee is active and the firm's address.

~~"Institutional advertising" means advertising in which neither the licensed name nor any other identification of any licensed individual is disclosed, no real property is identified, and a service mark is identified.~~

~~"Service mark" means the trade name or logo, whether or not registered under any federal or state law, which is owned by an entity other than the licensee and which the licensee firm has obtained permission to use through agreement, license, franchise, or otherwise.~~

"Viewable page" means a page that may or may not scroll beyond the borders of the screen and includes the use of framed pages.

~~C. Every licensee is prohibited from advertising and marketing under the licensee's own name (except for sole proprietors trading under the principal broker's own name) in any manner offering on behalf of others to buy, sell, exchange, rent, or lease any real property. B. All advertising and marketing must be under the direct supervision of the principal broker or supervising broker and in the name of the firm. The firm's licensed name must be clearly and legibly displayed on all display signs and other types of advertising and marketing.~~

~~D. If a licensee advertises property which he owns or in which he has any ownership interest without using the services of a licensed real estate entity, the licensee shall advertise with the notice that the owner is a real estate licensee, but such advertisement must not indicate or imply that the licensee is operating a real estate brokerage business.~~

E. Service marks and institutional advertising:

~~1. All institutional advertising shall state that the service being advertised is real estate brokerage, and shall state affirmatively that each licensed firm or sole proprietorship displaying or using the service mark is an independently owned and operated business.~~

~~2. Any service mark constituting a part of written noninstitutional advertising shall conspicuously disclose that the licensed brokerage firm or sole proprietorship is independently owned and operated. Disclosure that the licensed brokerage firm or sole proprietorship is independently owned and operated shall not be required in the following categories of written noninstitutional advertising:~~

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~~a. "For sale" and "for lease" signs located on the premises of specific property for sale or lease;~~

~~b. Advertising by a licensed firm or sole proprietorship in newspapers, magazines, or other publications of a single specific property for sale or lease when the advertisement occupies no more than 28 of the standard classified advertising lines of the newspaper, magazine, or other publications in which the advertisement is published; and~~

~~c. Telephone directory advertisements disclosing that the licensed brokerage firm or sole proprietorship is independently owned and operated is required in "display" advertisements and in "in column informational" or "business card" size advertisements, or their equivalent, appearing in telephone directories.~~

~~3. In oral, noninstitutional advertising, the speaker shall disclose affirmatively the licensee's name, and except in the case of telephone communication, shall disclose that the licensed firm or sole proprietorship is independently owned and operated.~~

C. Online advertising.

1. Any online advertising undertaken for the purpose of any licensed activity is subject to the provisions of this chapter.

2. All online advertising that can be viewed or experienced as a separate unit (i.e., e-mail messages and web pages) must contain disclosure as follows:

a. The web. If a firm or licensee owns a webpage or controls its content, the viewable page must include disclosure or a link to disclosure.

b. E-mail, newsgroups, discussion lists, bulletin boards. All such formats shall include disclosure at the beginning or end of each message. The provisions of this subsection do not apply to correspondence in the ordinary course of business.

c. Instant messages. Disclosure is not necessary in this format if the firm or licensee provided the disclosures via another format prior to providing, or offering to provide, licensed services.

d. Chat. Disclosure is required prior to providing, or offering to provide, licensable services during the chat session, or in text visible on the same webpage that contains the chat session if the licensee controls the website hosting the chat session.

e. Voice Over Net (VON). Disclosure is required prior to advertising or the disclosure text must be visible on the same webpage that contains the VON session.

f. Banner ads. A link to disclosure is required unless the banner ad contains the disclosure.

D. The following activities shall be prohibited:

1. Implying that property listed by a licensee's firm and advertised by the firm or licensee is for sale, exchange, rent or lease by the owner or by an unlicensed person;

2. Failing to include a notice in all advertising that the owner is a real estate licensee if the licensee owns or has any

ownership interest in the property advertised and is not using the services of a licensed real estate entity;

3. Failing to include the firm's licensed name on any sign displayed outside each place of business;

4. Failing to obtain the written consent of the seller, landlord, optionor or licensor prior to advertising a specific identifiable property; and

5. Failing to identify the type of services offered when advertising by general description a property not listed by the party making the advertisement.

PART VI.

STANDARDS OF CONDUCT.

18 VAC 135-20-200. Grounds for disciplinary action. (Repealed.)

~~The board has the power to fine any licensee or registrant, and to suspend or revoke any license issued under the provisions of Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1 of the Code of Virginia and the regulations of the board, where the licensee has been found to have violated or cooperated with others in violating any provision of Chapter 21 of Title 54.1 of the Code of Virginia, Chapter 1.3 (§ 6.1-2.19 et seq.) of Title 6.1 of the Code of Virginia or any regulation of the board.~~

18 VAC 135-20-220. Disclosure of brokerage relationships.

A. Purchase transactions.

1. Unless disclosure has been previously made by a licensee, a licensee shall disclose to an actual or prospective buyer or seller who is not the client of the licensee and who is not represented by another licensee and with whom the licensee has substantive discussions about a specific property or properties, the person whom the licensee represents in a brokerage relationship, as that term is defined in § 54.1-2130 of the Code of Virginia.

2. Except as otherwise provided in subdivision 3 of this subsection, such disclosure shall be made in writing at the earliest practical time, but in no event later than the time specific real estate assistance is first provided. Any disclosure complying with the provisions of § 54.1-2138 A of the Code of Virginia shall be deemed in compliance with this disclosure requirement.

3. A licensee acting as a dual or designated representative shall obtain the written consent of all clients to the transaction at the earliest practical time. Such consent shall be presumed to have been given by a client who signs a disclosure complying with the provisions of § 54.1-2139 of the Code of Virginia. Such disclosure shall be given to, and consent obtained from, (i) the buyer not later than the time an offer to purchase is presented to the licensee *who will present the offer to the listing agent or seller*, and (ii) the seller not later than the time the offer to purchase is presented to the seller.

4. Any disclosure required by this subsection may be given in combination with other disclosures or information, but, if so, the disclosure must be conspicuous, printed in bold

lettering, all capitals, underlined, or within a separate box or as otherwise provided by § 54.1-2138 of the Code of Virginia.

~~5. Any such disclosure shall advise a prospective buyer, seller, landlord, or tenant, who is not the client of the licensee of the duties of real estate brokers and salespersons under Virginia law and that there may be other relevant information concerning the transaction which may be obtained from other sources.~~

B. Lease transactions.

1. Unless disclosure has been previously made by a licensee, a licensee shall disclose to an actual or prospective landlord or tenant who is not the client of the licensee and who is not represented by another licensee, that the licensee has a brokerage relationship with another party or parties to the transaction. Such disclosure shall be in writing and included in the application for lease or the lease itself, whichever occurs first. If the terms of the lease do not provide for such disclosure, the disclosure shall be made in writing not later than the signing of the lease.

2. This disclosure requirement shall not apply to lessors or lessees in single or multi-family residential units for lease terms of less than three months.

18 VAC 135-20-230. Licensees dealing on own account. (Repealed.)

~~Any licensee failing to comply with the provisions of Title 54.1, Chapter 21 of the Code of Virginia or the regulations of the Real Estate Board in performing any acts covered by §§ 54.1-2100 and 54.1-2101 of the Code of Virginia, may be charged with improper dealings, regardless of whether those acts are in the licensee's personal capacity or in his capacity as a real estate licensee.~~

18 VAC 135-20-240. Provision of records to the board.

~~Unless otherwise specified by the board, or as set forth in § 54.1-2108 of the Code of Virginia, a licensee of the Real Estate Board shall upon demand produce to the board or any of its agents within 10 days of the request any document, book, or record concerning any real estate transaction in which the licensee was involved, or for which the licensee is required to maintain records for inspection and copying by the board or its agents. The board may extend such time frame upon a showing of extenuating circumstances prohibiting delivery within such 10-day period.~~

18 VAC 135-20-250. Response to any inquiry of the board.

A licensee must respond to an inquiry by the board, *other than requested under 18 VAC 135-20-240*, or its agents within 21 days.

18 VAC 135-20-260. Unworthiness and incompetence.

Actions constituting unworthy and incompetent conduct include:

1. Obtaining a license by false or fraudulent representation;
2. Holding more than one license as a real estate broker or salesperson in Virginia except as provided in this chapter;

3. As a currently licensed real estate salesperson, sitting for the licensing examination for a salesperson's license;

4. As a currently licensed real estate broker, sitting for a real estate licensing examination;

~~5. Having been convicted or found guilty of any crime directly relating to the practice of real estate, regardless of the manner of adjudication in any jurisdiction of the United States of a misdemeanor involving moral turpitude, sexual offense, drug distribution or physical injury, or any felony, there being no appeal pending therefrom or the time for appeal having elapsed. Except for misdemeanor convictions for being drunk in public, driving under the influence, or traffic violations, all criminal convictions shall be considered part of the totality of the circumstances. Review of convictions shall be subject to the requirements of § 54.1-204 of the Code of Virginia. Any plea of nolo contendere shall be considered a conviction for the purposes of this subdivision. The record of a conviction certified or authenticated in such form as to be admissible in evidence of the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such guilt;~~

~~6. Failing to inform the board in writing within 30 days of pleading guilty or nolo contendere or being convicted or found guilty regardless of adjudication of any felony or of a misdemeanor involving moral turpitude, sexual offense, drug distribution or physical injury convictions as stated in subdivision 5 of this section;~~

~~7. Having had a license as a real estate broker or real estate salesperson that was suspended, revoked, or surrendered in connection with a disciplinary action or that has been the subject of discipline in any jurisdiction.~~

~~8. Failing to inform the board in writing within 30 days of a disciplinary action as stated in subdivision 7 of this section.~~

~~9. Having been found in a court or an administrative body of competent jurisdiction to have violated the Virginia Fair Housing Act, the Fair Housing Laws of any jurisdiction of the United States including without limitation Title VIII of the Civil Rights Act of 1968 (82 Stat. 73), or the Civil Rights Act of 1866 (14 Stat. 27), there being no appeal therefrom or the time for appeal having elapsed;~~

~~10. Failing to act as a real estate broker or salesperson in such a manner as to safeguard the interests of the public; and~~

~~11. Engaging in improper, fraudulent, or dishonest conduct.~~

18 VAC 135-20-270. Conflict of interest.

Actions constituting a conflict of interest include:

~~1. Being employed by, affiliated with or receiving compensation from a real estate broker other than the licensee's principal broker, without the written consent of the principal broker;~~

~~2. Acting for more than one client in a transaction governed by the provisions of § 54.1-2139 of the Code of Virginia without first obtaining the written consent of all clients as provided by § 54.1-2139 of the Code of Virginia; and~~

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3. Acting as a standard agent or independent contractor for any client outside the licensee's brokerage firm(s) or sole proprietorship(s).

18 VAC 135-20-280. Improper brokerage commission.

Actions resulting in an improper brokerage commission include:

1. Offering to pay or paying a commission or other valuable consideration to any person for acts or services performed in violation of Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1 of the Code of Virginia, or this chapter; provided, however, that referral fees and shared commissions may be paid to any real estate entity licensed in this or another jurisdiction, or to any referral entity in the United States, the members of which are brokers licensed in this or another jurisdiction and which only disburses commissions or referral fees to its licensed member brokers;

2. Accepting a commission or other valuable consideration, as a real estate salesperson or associate broker, *from any person except the licensee's principal broker at the time of the transaction*, for (i) the performance of any of the acts specified in Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1 of the Code of Virginia or the regulations of the board, ~~from any person except the licensee's principal broker at the time of the transaction~~ or related to any real estate transaction, without the consent of that broker; or (ii) the use of any information about the property, the transaction or the parties to the transaction, gained as a result of the performance of acts specified in Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1 of the Code of Virginia without the written consent of the principal broker. No licensee shall act as an employee of a company providing real estate settlement services as defined in the Real Estate Settlement Procedures Act (12 USC § 2601 et seq.) or pursuant to a license issued by the Commonwealth of Virginia to provide real estate settlement services to clients or customers of the firm without written consent of the broker;

3. Receiving a fee or portion thereof including a referral fee or a commission or other valuable consideration for services required by the terms of the real estate contract when such costs are to be paid by either one or both principals to the transaction unless such fact is revealed in writing to the principal(s) prior to the time of ordering or contracting for the services;

4. Offering or paying any money or other valuable consideration for services required by the terms of the real estate contract to any party other than the principals to a transaction which results in a fee being paid to the licensee; without such fact being revealed in writing to the principal(s) prior to the time of ordering or contracting for the services;

5. Making a listing contract or lease which provides for a "net" return to the seller/lessor, leaving the licensee free to sell or lease the property at any price he can obtain in excess of the "net" price named by the seller/lessor; and

6. Charging money or other valuable consideration to or accepting or receiving money or other valuable consideration from any person or entity other than the licensee's client for expenditures made on behalf of that client without the written consent of the client.

18 VAC 135-20-290. Improper dealing.

Actions constituting improper dealing include:

1. Entering a brokerage relationship that (i) does not specify a definite termination date; (ii) *does not provide a mechanism for determining the termination date*; or (iii) *is not terminable by the client*;

2. Offering real property for sale or for lease without the knowledge and consent of the owner or the owner's authorized representative, or on any terms other than those authorized by the owner or the owner's authorized representative;

3. Placing a sign on any property without the consent of the owner of the property or the owner's authorized representative; and

4. Causing any advertisement for sale, rent, or lease to appear in any newspaper, periodical, or sign without including in the advertisement the name of the firm or sole proprietorship.

18 VAC 135-20-300. Misrepresentation/omission.

Actions constituting misrepresentation or omission, or both, include:

1. Using "bait and switch" tactics by advertising or offering real property for sale or rent with the intent not to sell or rent at the price or terms advertised, unless the advertisement or offer clearly states that the property advertised is limited in specific quantity and the licensee did in fact have at least that quantity for sale or rent;

2. Failure by a licensee representing a seller or landlord as a standard agent to disclose in a timely manner to a prospective purchaser or tenant all material adverse facts pertaining to the physical condition of the property which are actually known by the licensee;

3. Failing as a licensee to tender promptly to the buyer and seller every written offer, every written counteroffer, and every written rejection to purchase, option or lease obtained on the property involved;

4. Failure by a licensee acting as a standard agent to disclose in a timely manner to the licensee's client all material facts related to the property or concerning the transaction when the failure to so disclose would constitute failure by the licensee to exercise ordinary care as defined in the brokerage agreement;

5. Notwithstanding the provisions of subdivision 4 of this section, a licensee acting as a dual representative shall not disclose to one client represented in the dual representation confidential information relating to the transaction obtained during the representation of another client in the same dual representation unless otherwise provided by law;

6. Failing to include the complete terms and conditions of the real estate transaction in any lease or offer to purchase;

7. Failing to include in any application, lease, or offer to purchase identification of all those holding any deposits;

8. Knowingly making any false statement or report, or willfully misstating the value of any land, property, or security for the purpose of influencing in any way the action of any lender upon:

- a. Applications, advance discounts, purchase agreements, repurchase agreements, commitments or loans;
- b. Changes in terms or extensions of time for any of the items listed in this subdivision 8 whether by renewal, deferment of action, or other means without the prior written consent of the principals to the transaction;
- c. Acceptance, release, or substitution of security for any of the items listed in subdivision 8 a of this section without the prior written consent of the principals to the transaction.

9. *Knowingly making any material misrepresentation or making a material misrepresentation reasonably relied upon by a third party to that party's detriment; and*

10. Making a false promise through agents, salespersons, advertising, or other means.

18 VAC 135-20-320. ~~Recordkeeping and escrow funds. (Repealed.)~~

~~Actions constituting improper recordkeeping and maintenance of escrow funds include:~~

- ~~1. Failing, as a principal or supervising broker, to retain for a period of three years from the date of the closing or ratification, if the transaction fails to close, a complete and legible copy of each disclosure of a brokerage relationship and each executed contract, agreement, and closing statement related to a real estate transaction in the broker's control or possession;~~
- ~~2. Having received moneys on behalf of others and failed to maintain a complete and accurate record of such receipts and their disbursements for a period of three years from the date of the closing or termination of a lease or conclusion of the licensee's involvement in the lease;~~
- ~~3. Failing, within a reasonable time, to account for or to remit any moneys coming into a licensee's possession which belong to others;~~
- ~~4. Accepting any note, nonnegotiable instrument, or anything of value not readily negotiable, as a deposit on a contract, offer to purchase, or lease, without acknowledging its acceptance in the agreement;~~
- ~~5. Commingling the funds of any person by a principal or supervising broker or his employees or associates or any licensee with his own funds, or those of his corporation, firm, or association; and~~
- ~~6. Failure to deposit escrow funds in an account or accounts designated to receive only such funds as required by this chapter (see 18 VAC 135-20-180 A 1).~~

18 VAC 135-20-330. Principal and supervising broker's responsibility for acts of licensees and employees.

Any unlawful act or violation of any of the provisions of *Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1, Chapter 24 or of Chapter 5.1 (§ 36-96.1 et seq.) of Title 36, Chapter 5* of the Code of Virginia or of the regulations of the board by any real estate salesperson, employee, partner or affiliate of a principal broker, supervising broker, or both, may not be cause for disciplinary action against the principal broker, supervising broker, or both, unless it appears to the satisfaction of the board that the principal broker, supervising broker, or both, knew or should have known of the unlawful act or violation *and failed to take reasonable action under the circumstances to remedy the situation.*

18 VAC 135-20-340. Effect of disciplinary action on subordinate licensees.

Action by the board resulting in the revocation, suspension, or denial of renewal of the license of any principal broker or sole proprietor shall automatically result in an order that the licenses of any and all individuals ~~affiliated active with or employed by~~ the affected firm be returned to the board until such time as they are reissued upon the written request of a sole proprietor or principal broker pursuant to 18 VAC 135-20-170 B.

PART ~~VII~~ VI. SCHOOLS.

18 VAC 135-20-360. Proprietary school standards, instructor qualifications and course requirements.

A. Every applicant to the Real Estate Board for a proprietary school certificate shall meet the standards provided in § 54.1-2105 of the Code of Virginia.

B. Every applicant to the Real Estate Board for approval as an instructor shall have one of the following qualifications:

1. Baccalaureate degree, a Virginia real estate broker's license, and two years of discipline-free active real estate experience within the past five years;
2. Five years of discipline-free active experience acquired in the real estate field in the past seven years and an active Virginia broker's license; or
3. ~~Qualified experts~~ *Expertise* in a specific field of real estate who will teach only in the area of their expertise. For example, a licensed real estate appraiser, with at least five years of active appraisal experience in Virginia, may be approved to teach Real Estate Appraisals. Such applicants will be required to furnish proof of their expertise including, but not limited to, educational transcripts, professional certificates and letters of reference which will verify the applicant's expertise.

C. Prelicensure courses must be acceptable to the board and are required to have a monitored, final written examination. Those schools which propose to offer prelicensing courses (Principles and Practices of Real Estate, Real Estate Brokerage, Real Estate Finance, Real Estate Law or Real Estate Appraisal, etc.) must submit a request, in writing, to the

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board prior to offering the course(s) and supply the following information:

1. Course content. All Principles and Practices of Real Estate courses must include the 25 topic areas specified in 18 VAC 135-20-400. All requests to offer broker courses must include a course syllabus acceptable to the board;
2. Name of the course's text and any research materials used for study assignments;
3. Description of any research assignments;
4. Copies of test or quizzes;
5. Information explaining how the "Principles" course will require 60 hours of study, or how each broker related course will require 45 hours of study, in compliance with § 54.1-2105 of the Code of Virginia; and
6. Information about recordkeeping for the type of course delivery.

D. Providers of continuing education courses shall submit all subjects to the board for approval prior to initially offering the course. Correspondence and other distance learning courses offered by an approved provider must include appropriate testing procedures to verify completion of the course. The board shall approve courses and the number of hours approved for each course based on the relevance of the subject to the performance of the duties set forth in §§ 54.1-2100 and 54.1-2101 of the Code of Virginia.

E. All schools must establish and maintain a record for each student. The record shall include: the student's name and address, the course name and clock hours attended, the course syllabus or outline, the name or names of the instructor, the date of successful completion, and the board's course code. Records shall be available for inspection during normal business hours by authorized representatives of the board. Schools must maintain all student and class records for a minimum of five years.

F. All schools must provide each student with a certificate of course completion or other document that the student may use as proof of course completion. The certificate or other document shall contain the hours of credit completed.

18 VAC 135-20-370. Fees.

A. The application fee for an original certificate for a proprietary school shall be \$75.

B. The renewal fee for proprietary school certificates expiring biennially on June 30 shall be \$38.

C. If the requirements for renewal of a proprietary school certificate, including receipt of the fee by the board, are not completed within 30 days of the expiration date noted on the certificate, a reinstatement fee of \$85 is required. A certificate may be reinstated for up to one year following the expiration date with payment of the reinstatement fee. After one year, the certificate may not be reinstated under any circumstances and the applicant must meet all requirements and apply as a new applicant.

D. The application for an original instructor certificate shall be \$100.

E. The renewal fee for an instructor certificate expiring biennially on June 30 shall be \$50.

F. If the requirements for renewal of an instructor certificate, including receipt of the fee by the board, are not completed within 30 days of the expiration date on the certificate, a reinstatement fee of \$85 is required. A certificate may be reinstated for up to one year following the expiration date with payment of the reinstatement fee. After one year, the certificate may not be reinstated under any circumstances and the applicant must meet all requirements and apply as a new applicant.

G. The board in its discretion may deny renewal of a certificate *for the same reasons it may deny initial approval.* ~~Upon such denial, the certificate holder may request that a hearing be held.~~

18 VAC 135-20-410. Broker courses.

A. Brokerage shall be a required specific course with three semester hours or six quarter hours, but not less than 45 class hours, constituting a complete course.

B. "Related subjects," as referred to in § 54.1-2105 of the Code of Virginia, shall be real estate related and shall include, but are not limited to, courses in property management, land planning and land use, business law, real estate economics, and real estate investments.

C. No more than 45 class hours of broker-related courses shall be accepted in lieu of specific broker courses *set forth in § 54.1-2105 of the Code of Virginia.*

D. Schools intending to offer equivalent broker courses must submit to the board for approval a copy of the syllabus of the particular course with a cover letter requesting approval.

NOTICE: The forms used in administering 18 VAC 135-20, Virginia Real Estate Board Licensing Regulations, are not being published due to the large number; however, the name of each form is listed below. The forms are available for public inspection at the Real Estate Board, 3600 W. Broad Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

FORMS

~~Activate/Transfer/Concurrent Application, ATC (eff. 7/99).~~

Activate/Transfer Application, 02AT (1/02).

Add-on Business Entity License Application, 02ADDBUS (1/02).

Broker Education Requirements for Non-Reciprocal Examinees, 02BEDREQ (~~eff. 7/99~~ rev. 1/02).

Branch Office License Application, 00BRANCH (~~eff. 7/99~~ rev. 1/02).

Business Entity License Application, 00BUSENT (~~eff. 7/99~~ rev. 1/02).

Business Entity License Transfer Application, 00BUSTR (~~eff. 7/99~~ rev. 1/02).

Certificate of Ownership/Individual Trading Under an Assumed or Fictitious Name Application, 02CRTOWN (1/02).

Concurrent Broker Acknowledgment Form, 02CONACK (7/99).

Concurrent Broker Application, 02CONCUR (1/02).

Consent To Suits and Service of Process Form, 02CTS (eff. ~~7/99~~ rev. 1/02).

Experience Verification Form, 02EXP (eff. ~~7/99~~ rev. 1/02).

Firm License Application, 02FIRM (eff. ~~7/99~~ rev. 1/02).

Firm Name/Address Change Form, 02FNACHG (eff. ~~7/99~~ rev. 1/02).

Firm Principal Broker/Officer Change Form, 02PBOCHG (eff. ~~7/99~~ rev. 1/02).

Principal Broker and Sole Proprietor License Application, 02PBSPLIC (eff. ~~7/99~~ rev. 1/02).

Reciprocity Applicant Instructions, 02RECINS (eff. ~~7/99~~ rev. 1/02).

Salesperson and Associate Broker License Application, 02SABLIC (eff. ~~7/99~~ rev. 2/02).

Supervising Broker Appointment/Change Form, 02SBCHG (eff. ~~7/99~~ rev. 1/02).

VA.R. Doc. No. R01-232; Filed July 8, 2002; 11:25 a.m.

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Title of Regulation: 18 VAC 135-40. Time-Share Regulations (amending 18 VAC 135-40-20, 18 VAC 135-40-50, 18 VAC 135-40-60, 18 VAC 135-40-80, 18 VAC 135-40-110, 18 VAC 135-40-150, 18 VAC 135-40-160, 18 VAC 135-40-420, and 18 VAC 135-40-430; repealing 18 VAC 135-40-10, 18 VAC 135-40-30, 18 VAC 135-40-40, 18 VAC 135-40-70, 18 VAC 135-40-90, 18 VAC 135-40-120, 18 VAC 135-40-130, 18 VAC 135-40-170 through 18 VAC 135-40-410, and 18 VAC 135-40-440 through 18 VAC 135-40-530).

Statutory Authority: § 55-396 of the Code of Virginia.

Public Hearing Date: September 11, 2002 - 1 p.m.

Public comments may be submitted until 5 p.m. on September 30, 2002.

(See Calendar of Events section for additional information)

Agency Contact: Karen W. O'Neal, Deputy Director, Real Estate Board, 3600 W. Broad Street, Richmond, VA 23230, telephone (804) 367-8537, FAX (804) 367-2475 or e-mail oneal@dpor.state.va.us.

Basis: Chapter 21 (§ 55-360 et seq.) of Title 55 of the Code of Virginia (The Virginia Real Estate Time-Share Act [the Act]) creates the statutory authority for the registration and regulation of time-share use projects, time-share estate projects, alternative purchases, conversions, and other aspects of the time-share industry by the Real Estate Board.

Section 55-396 of the Code of Virginia allows for the board to "adopt, amend, and repeal rules and regulations and issue

orders consistent with and in furtherance of the objectives" of the Act. Additionally, the board is provided with the authority to prescribe forms and develop procedures for the submission of information to the board.

Purpose: This is the first revision to the existing regulations since 1987. The purpose of this revision is to ensure that the regulations remain consistent with the Act, which has been amended numerous times in the past 13 years. The purpose of the regulations is to create a regulatory framework to protect the public when purchasing or utilizing a time-share project.

Substance: The key provisions of the proposed regulations that make changes to the current status of law are identified and explained as follows:

Definitions: This section of the regulations replaces the general section and serves to define and explain terminology that may be used in this chapter that is not defined in the statutes.

Registration: Establishes and clarifies the procedure for filing a registration application and sets the filing fees.

Marketing: No substantive changes made to existing sections, editorial changes made to clarify existing regulations.

Public offering statement: Substantive changes to this section include the deletion of those sections that duplicated or were in conflict with the public offering statement provision of the statutes.

Post registration provisions: Sections of this portion of the regulations were deleted to avoid duplication with the statutes. A 20-day reporting period was inserted in the requirement to report material changes, previously no grace period was allowed. Other changes were made to clarify and simplify existing regulations.

Issues: As with most real estate transactions, the paperwork involved in the purchase of a time-share can seem overwhelming to the layperson. Sales contracts, legal declarations, public offering statements, bylaws, rules and regulations, and exchange agreements are just some of the documents presented to the purchaser during the sales presentation. Regulation of the time-share companies ensures that these documents disclose information to the potential purchasers to afford them the opportunity to make an informed decision as to whether to commit to this sort of purchase.

The primary advantage to the public in the proposed changes is to assist them in making more informed decisions when purchasing a time-share through full disclosure in all documents. The advantage to those registering time-share projects is achieved through simplification of registration procedures. No disadvantages have been identified.

Department of Planning and Budget's Economic Impact

Analysis: The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007 G of the Administrative Process Act and Executive Order Number 25 (98). Section 2.2-4007 G requires that such economic impact analyses include, but

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need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the proposed regulation. These regulations were last revised in 1987. The Real Estate Board (board) proposes to make several changes to these regulations, primarily to reflect amendments to the Virginia Real Estate Time-Share Act (act) that have occurred since then. The proposed amendments include deleting language that is duplicative of the act, altering language to better reflect the act, and other changes made for clarification. In addition, the board proposes to permit time-share developers a 20-day grace period for submitting amended public offering statements to reflect material changes.

Estimated economic impact. Under the current regulations, time-share developers are required to submit to the board public offering statements amended to reflect a material change prior to or upon the occurrence of the material change. Section 55-362 of the Code of Virginia defines a material change as "a change in any information or document disclosed in or attached to the public offering statement which renders inaccurate, incomplete or misleading any information or document in such a way as to affect substantially a purchaser's rights or obligations, ..." Several exceptions are included in the statute.

The board proposes to permit developers a 20-day grace period for submitting amended public offering statements to reflect material changes. According to the Department of Professional and Occupational Regulation, the board has routinely permitted a 20-day grace period in practice. Also, the proposed regulations retain the following statement: "No promise, assertion, representation or statement of fact or opinion in connection with a time-share marketing activity shall be made which is false, inaccurate or misleading by reason of inclusion of an untrue statement of a material fact or omission of a statement of a material fact relative to the actual or intended characteristics, circumstances or features of the time-share project or a time-share." The Virginia courts have consistently allowed purchasers of time-shares to void their contracts when the marketing materials have not accurately reflected material changes.¹ Thus, this proposed change, as well as the proposed amendments to delete duplicative language, alter language to better reflect the act, and changes made for clarification will not substantially affect citizens, businesses, and other entities in Virginia.

Businesses and entities affected. The proposed regulations affect the 66 time-share properties registered in Virginia, as well as their owners and clients.

Localities particularly affected. Most Virginia time-share properties are located within Virginia Beach, the Colonial

Williamsburg area, Alexandria, or near alpine skiing.² Time-share properties that are marketed within Virginia but are located out-of-state are also subject to these regulations.

Projected impact on employment. The proposed changes are not projected to affect employment.

Effects on the use and value of private property. The proposed changes are unlikely to affect the use and value of private property.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The agency concurs with the economic impact analysis performed by the Department of Planning and Budget.

Summary:

The proposed changes to the Time-Share Regulations will eliminate duplication with the statutes, streamline the explanation of the registration and annual report process, and further clarify regulations that are somewhat vague and in some instances contrary to amendments that have been added to the statutes.

PART I. GENERAL

18 VAC 135-40-10. Purpose. (Repealed.)

~~This chapter governs the exercise of powers granted to and the performance of duties imposed upon the Virginia Real Estate Board by the Virginia Real Estate Time-Share Act, § 55-360 et seq. of the Code of Virginia.~~

18 VAC 135-40-20. Definitions and explanation of terms.

~~The definitions provided in § 55-362 of the Code of Virginia, as they may be supplemented herein, shall apply to these time-share regulations *this chapter*. Each reference in these regulations to a "developer," "purchaser," and "time-share owner" or to the plural of those terms shall be deemed to refer, as appropriate, to the masculine and the feminine, to the singular and the plural and to natural persons and organizations.~~

18 VAC 135-40-30. Time-share advisory committee. (Repealed.)

~~A time-share advisory committee, appointed by the board, may advise the board in the exercise of its powers and the performance of its duties under the Virginia Real Estate Time-Share Act.~~

18 VAC 135-40-40. Property registration administrator. (Repealed.)

~~A property registration administrator, employed and designated as such by the Director of the Department of Professional and Occupational Regulation shall function as a subordinate of the board within the meaning of § 9-6.14:4 C of the Code of Virginia for the purpose of carrying out the routine daily operations of the board with respect to time-share regulations, including, without limitation, the entry of any orders provided for in these time-share regulations, the~~

¹ Source: The Department of Professional and Occupational Regulation.

² Ibid.

~~issuance of public reports and the administration of oaths and affirmations in connection with investigations or other proceedings. The property registration administrator shall act as secretary of the time share advisory committee.~~

~~PART II.
APPLICATION FOR REGISTRATION.~~

18 VAC 135-40-50. Application for registration.

~~Application for registration of time-share units projects and programs shall be filed at the offices of with the board. The on an application form furnished by the board and shall contain all of the documents and information required by § 55-391.1 of the Code of Virginia. Each application for registration shall be submitted on the standard application form which is furnished by the board.~~

18 VAC 135-40-60. Form of the application; submission of documents.

The board may establish specific guidelines which establish the form for preparation of the application for registration. These guidelines shall may set forth reasonable requirements for paper size, binding and organization which assure uniformity in the manner disclosures are made to prospective purchasers.

18 VAC 135-40-70. Procedure upon receipt of application for registration. (Repealed.)

~~A. Upon receipt of an application for registration, the board shall issue a "notice of filing" and shall review the application and supporting documents to determine whether the prerequisites for registration set out in § 55-391.1 of the Code of Virginia have been met. In making such a determination, the board may rely upon reliable information concerning the developer of the project or the project coming to the board's attention. However, this does not excuse the developer's obligation to complete the registration application accurately and truthfully.~~

~~B. If the board determines that any prerequisite for registration has not been met, the board shall so notify the developer.~~

~~Upon receipt of an application for registration not in proper form, the board shall return the application to the developer with a statement specifying the deficiencies in its form; provided, however, that, if the board has reason to believe that the application may readily be put into proper form, it may retain the application and notify the developer of the steps that must be taken to put the application in proper form.~~

~~C. At such time as the board affirmatively determines that the prerequisites for registration have been met, the board shall so notify the developer.~~

18 VAC 135-40-80. Filing fees.

1. The filing fee for an original application for registration of a time-share project shall be \$1,500.
2. The filing fee for an amendment to the application for registration adding a phase or phases to the time-share project shall be \$250.
3. The filing fee for the annual report filed by the developer shall be \$500.

4. The filing fee for an original application for registration of an exchange company shall be \$1,000. The filing fee for the annual report of an exchange company shall be \$250.

~~5. Unless identified above, no other filing fee shall be assessed. There shall be no fee for filing an amended public offering statement with the board.~~

~~PART III.
REGISTRATION.~~

18 VAC 135-40-90. Prerequisites for registration. (Repealed.)

The following provisions are prerequisites for registration and are supplementary to the provisions of § 55-391.1 of the Code of Virginia.

~~1. The developer shall own or have the right to acquire an estate in the land constituting or to constitute the time share project which is of at least as great a degree and duration as the estate to be conveyed in the time shares.~~

~~2. The time share instrument must be in a form which complies with the requirements of the Act and sufficient to bring a time share program or project into existence upon recordation of the instrument.~~

~~3. The developer shall have filed with the board evidence of its ability to complete all proposed improvements which are committed at that time to the time share project. Such evidence shall consist of the bond or letter of credit as required by § 55-386 of the Code of Virginia. If such bond or letter of credit is voided subsequent to registration, effectiveness of registration shall cease immediately.~~

~~4. The current and planned marketing activities of the developer shall comply with §§ 18.2-216 and 55-374.1 of the Code of Virginia, and with 18 VAC 135-40-130 and 18 VAC 135-40-140 of this chapter.~~

~~5. The developer shall have filed with the board (i) a proposed public offering statement which complies with § 55-374 of the Code of Virginia and 18 VAC 135-40-130 through 18 VAC 135-40-320 of this chapter and, if applicable 18 VAC 135-40-340 through 18 VAC 135-40-400 of this chapter; or, (ii) a substitute public offering statement which complies with 18 VAC 135-40-130 of this chapter.~~

~~6. The developer shall file a narrative description of the promotional plan for the time share development with the application for registration.~~

~~PART IV.
MARKETING.~~

18 VAC 135-40-110. Time-share marketing standards.

A. No promise, assertion, representation or statement of fact or opinion in connection with a time-share marketing activity shall be made which is false, inaccurate or misleading by reason of inclusion of an untrue statement of a material fact or omission of a statement of a material fact relative to the actual or intended characteristics, circumstances or features of the time-share project or a time-share.

~~B. There shall be no indication that an improvement will be built or placed in the time share project unless the developer~~

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~~has sufficient financial assets and a bona fide intention to complete the improvement as represented.~~

~~G. B. No promise, assertion, representation or statement of fact or opinion made in connection with a time-share marketing activity and relating to a time-share project not registered shall, by its express terms, induce, solicit or encourage a contract for sale or performing some other act which would create or purport to create a legal or equitable interest in the time-share other than a security interest in a nonbinding reservation of the time-share, when to do so would circumvent the provisions of this the Virginia Real Estate Time-Share Act.~~

18 VAC 135-40-120. Offering literature. (Repealed.)

~~A. "Offering literature" is any written promise, assertion, representation or statement of fact or opinion made in connection with a time-share marketing activity mailed or delivered directly to a prospective purchaser and which originates in this Commonwealth.~~

~~B. Offering literature mailed or delivered prior to the effectiveness of the registration of the time-share project which is the subject of the offering literature shall bear a conspicuous legend containing the substance of the following language:~~

~~Identity of the time-share project has not been effectively registered with the Virginia Real Estate board. A time-share may be reserved on a nonbinding reservation agreement, but no contract of sale may be entered prior to the effectiveness of the developer's registration. Any deposit given at the time of the reservation is refundable at the purchaser's option until the period during which any right of cancellation expired and must be placed in an escrow account with a financial institution having trust powers within the Commonwealth of Virginia, whose accounts are insured by a governmental agency or instrumentality.~~

~~PART V.~~

~~PUBLIC OFFERING STATEMENT.~~

18 VAC 135-40-130. Scope of public offering statement. (Repealed.)

~~The provisions of this section outlining the contents of the public offering statement supplement the requirements of § 55-374 of the Code of Virginia. A public offering statement shall make disclosures relative to a single offering and to the entire time-share program in which the time-shares being offered are located. No more than one version of a public offering statement shall be used at any given time with respect to a particular time-share program.~~

18 VAC 135-40-150. Nature of information to be included in public offering statement.

A. The provisions of ~~§ 55-374.1~~ 55-374 of the Code of Virginia and 18 VAC 135-40-100 through ~~18 VAC 135-40-390~~ of this chapter shall be strictly construed to promote full and accurate disclosure in the public offering statement and, thereby, to protect the interests of purchasers.

B. The requirements for disclosure are not exclusive. In addition to expressly required information, the developer shall

disclose all other available information which may reasonably be expected to affect the decision of the ordinarily prudent purchaser to accept or reject the offer of a time-share. The developer shall disclose any additional information necessary to make the required information not misleading. No information may be presented in such a fashion as to obscure the facts, to encourage a misinterpretation of the facts or otherwise to mislead a purchaser.

C. No information shall be incorporated by reference to an extrinsic source which is not readily available or already known to an ordinary purchaser. Whenever required information is not known or not reasonably available, such fact shall be stated in the public offering statement with a brief explanation. Whenever special circumstances exist which would render required disclosure inaccurate or misleading, the required disclosure shall be modified to accomplish the purpose of the requirement or the disclosure shall be omitted, provided that such modification or omission promotes full and accurate disclosure.

~~D. Disclosure shall be made of pertinent facts, events, conditions or other states of affairs which the developer has reason to believe will occur or exist in the future or which the developer intends to cause to occur or to exist in the future. Disclosure relating to future facts, events, or conditions shall be limited by the provisions of subsection F hereof.~~

~~E. D.~~ The public offering statement shall be as brief as is consistent with full and accurate disclosure. In no event shall the public offering statement be made so lengthy or detailed as to discourage close examination. Duplication and unnecessary legal language is discouraged.

~~F. E.~~ Expressions of opinion in the public offering statement shall be deemed inconsistent with full and accurate disclosure unless there is ~~ample~~ *an existing* foundation in fact for the opinion ~~expressed therein~~; provided, however, that this sentence shall not affect in any way the developer's duty to set forth a projected budget for the time-share ~~estate~~ program's operation.

~~G. F.~~ Except for brief excerpts ~~therefrom~~, the public offering statement shall not incorporate verbatim portions of the time-share instrument or other documents. *The developer is encouraged in the public offering statement to direct the purchaser's attention may be directed to pertinent portions of the instrument or documents attached to the public offering statement which are too lengthy to incorporate verbatim where required disclosures can be found, and if incorporated by reference, shall be deemed to be a part of the public offering statement.*

~~H. G.~~ Maps, photographs and drawings may be utilized in the public offering statement, provided that such ~~utilization~~ *use* promotes full and accurate disclosure ~~of the required characteristics~~.

18 VAC 135-40-160. Readability of public offering statement.

The public offering statement shall be clear and understandable. The public offering statement may be written in narrative, question and answer, or other form selected by the developer so long as all information required by the Real

Estate Time-Share Act and this chapter is included in a clear and understandable manner. *Use of defined terms in the Real Estate Time-Share Act in writing the public offering statement is encouraged.* Determination as to compliance with the standards of this paragraph are section is within the exclusive discretion of the board.

18 VAC 135-40-170. Summary of important considerations. (Repealed.)

A. Immediately following the first page and before the table of contents, the public offering statement shall include a summary of important considerations consisting of particularly noteworthy items of disclosure. Certain summary statements are required by subsections D and E hereof. Other summary statements may be proposed by the developer or included by order of the board for the purpose of reinforcing the disclosure of significant information not otherwise included in the summary of important considerations. No summary statement shall be included for the major purpose of enhancing the sales appeal of the time-shares.

B. The summary shall be titled as such and shall be introduced by the following statement: "Following are important matters to be considered in acquiring a time share. They are highlights only. The narrative sections should be examined to obtain detailed information." Each summary statement shall include a reference to pertinent portions, if any, of the public offering statement for details respecting the information summarized. Each summary statement, exclusive of any reference to other portions of the public offering statement, shall be limited to no more than three sentences except that the board may, by order, permit or require additional sentences.

C. Whenever the board finds that the significance to purchasers of certain information requires that it be disclosed more conspicuously than by regular presentation in the summary of important considerations, it may provide, by order, that a summary statement of the information shall be underscored, italicized or printed in a larger or heavier type than the remainder of the public offering statement.

D. In the case of a TIME SHARE ESTATE PROGRAM, summary statements shall be made of the substance of the following facts and circumstances. Specific information shall be substituted for the general information indicated by brackets. Appropriate modifications shall be made to reflect facts and circumstances varying from those indicated herein:

1. Purchasers have a nonwaivable right to cancel the purchase contract for seven calendar days after execution of the purchase contract or receipt of a current public offering statement, whichever is later. Cancellation is without penalty, and all payments made by the purchaser before cancellation must be refunded within 45 days after receipt of the notice of cancellation. If the purchaser elects to cancel this contract, the purchaser shall do so by hand delivering the cancellation notice or mailing it by certified United States mail, return receipt requested, to the developer or to his agent for service of process, [name and address of agent for service of process].

2. The time share estate program will be governed by a time share owners' association formed under the [Virginia

Non-Stock Corporation Act or law of the situs state as appropriate]. A time share owner may have voting rights as outlined in Articles of Incorporation of the association or bylaws thereof and such owner will be bound by all decisions of the association including those with which he disagrees.

3. Decisions affecting the business and affairs of the time share estate owners' association shall be made by its governing body, generally its board of directors or, in most instances, an executive committee thereof.

4. The expenses of operating the time share estate owners' association will be paid on the basis of a [periodic budget]. Each time share estate owner will pay a [periodic] amount and may be required to pay special assessments. A time share estate owner cannot reduce the amount of his financial obligation by refraining from use of his time share or the project's facilities.

5. If a time share estate owner fails to pay a financial obligation when due, the time share estate owners' association may levy a lien against his time share. Certain other penalties may be applied.

6. The developer may make payments on unsold time shares in addition to [or in lieu of] time share estate occupancy expenses.

7. The developer, its principals, officers, directors, partners, or trustees have [not] undergone [a debtor's relief proceeding].

8. The developer will retain control of the time share estate owners' association until at least the end of the "Developer Control Period." See § 55-369.

9. A managing agent may perform routine operations of the time share estate owners' association. The managing agent is [affiliated with] the [developer, a director or an officer of the time share estate owners' association].

10. The developer may rent [sold] unsold time shares. The right of a time share estate owner to rent his time share is [not] subject to restrictions.

11. The right of the time share estate owner to resell his time share is [not] subject to restrictions.

12. The time shares are [not] restricted to residential use.

13. The time share estate owner may not alter the structure or exterior of the unit in which his time share is located.

14. The time share estate owners' association will obtain certain insurance benefiting the time share owner, but the time share estate owner should obtain additional insurance on his own.

15. The time share estate owner will pay real estate taxes on his time share.

16. The time share estate owner will be required to pay the real estate taxes applicable to his time share; failure to pay such taxes may result in the loss of the time share unit.

17. Failure on the part of the time share estate owners' association to pay the real estate taxes on the time share

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~~project or cause to be paid the underlying liens on the project could result in foreclosure thereon by the appropriate creditor.~~

~~18. Marketing and sale of time shares shall comply with Virginia Fair Housing Law (§ 36-96.1 et seq. of the Code of Virginia).~~

~~19. A time-share purchaser is required to make certain disclosures to purchasers in the resale of his time share.~~

~~E. In the case of a TIME SHARE USE PROGRAM, summary statements shall be made of the substance of the following facts and circumstances. Specific information shall be substituted for the general information indicated by brackets. Appropriate modifications shall be made to reflect facts and circumstances varying from those indicated herein:~~

~~1. Purchasers have a nonwaivable right to cancel the purchase contract for seven calendar days after execution of the purchase contract or receipt of a current public offering statement, whichever is later. Cancellation is without penalty, and all payments made by the purchaser before cancellation must be refunded within 45 days after receipt of the notice of cancellation. If the purchaser elects to cancel this contract, the purchaser shall do so by hand-delivering the cancellation notice or mailing it by certified United States mail, return receipt requested, to the developer or to his agent for service of process, [name and address of agent for service of process].~~

~~2. The time-share use program will be governed by the developer.~~

~~3. Decisions affecting the time-share use project will be made by the developer.~~

~~4. A time-share use owner cannot reduce the amount of his financial obligations by refraining from use of his time share or the projects' facilities.~~

~~5. If a time share use owner fails to pay a financial obligation when due, the developer may impose certain sanctions or penalties, including the forfeiture of the time share.~~

~~6. The developer, its principals, officers, directors, partners, or trustees have [not] undergone [a debtor's relief proceeding].~~

~~7. A managing agent may perform routine operations for the operation, maintenance and upkeep of the time share project, as determined by the developer. The managing agent is [affiliated with] the [developer, or a director or officer thereof].~~

~~8. The developer may rent on a transient basis, [sold] unsold time shares. The right of a time-share use owner to rent his time share is [not] subject to restrictions.~~

~~9. The right of a time-share use owner to resell his time share is [not] subject to restrictions.~~

~~10. The time shares are [not] restricted to residential use;~~

~~11. The time-share use owner may not alter the structure or exterior of the unit in which his time share is located.~~

~~12. The developer will obtain certain insurance benefiting the time-share use owner, but the time-share use owner should obtain additional insurance on his own.~~

~~13. The time-share use owner may be required to pay applicable taxes imposed on the project similar in scope and design to taxes applicable to hotels, motels or other transient type accommodations.~~

~~14. Marketing and sale of time shares shall comply with Virginia Fair Housing Law (§ 36-96.1 et seq. of the Code of Virginia).~~

~~15. A time-share purchaser is required to make certain disclosures to purchasers in the resale of his time share.~~

18 VAC 135-40-180. Narrative sections. (Repealed.)

~~The information to be presented in the public offering statement shall be broken down into sections in order to facilitate reading and comprehension. Certain sections are required by 18 VAC 135-40-190 through 18 VAC 135-40-310 of this chapter. Supplementary sections may be included whenever necessary to incorporate information which cannot properly be placed within one of the required sections. Supplementary section captions which indicate the nature of the material presented thereunder shall be utilized. The sections may be set out in any order which lends itself to the organized presentation of information. Section captions may be underscored, italicized or printed in larger or heavier type than the remainder of the public offering statement. A table of contents shall be utilized.~~

18 VAC 135-40-190. Time-share concept. (Repealed.)

~~The Public Offering Statement shall contain a section captioned "The Time Share Concept." The section shall consist of a discussion of the time-share form of ownership and shall include a detailed explanation of the type of time-share arrangement employed in the project.~~

18 VAC 135-40-200. Creation of the time-share program. (Repealed.)

~~The public offering statement shall contain a section captioned "The Creation of the Time Share Program." The section shall explain the manner in which the time-share program was created and shall briefly describe the time-share instrument, its function and the procedure for its amendment. The section shall provide the recording information for the time share instrument. The section shall indicate where the time share instrument or copies thereof may be found. The section shall state that the purchaser will receive copies of the recorded time share instrument prior to or simultaneously with settlement.~~

18 VAC 135-40-210. Description of the time-share program. (Repealed.)

~~The public offering statement shall contain a section captioned "Description of the Time Share Program." The section shall consist of a general description of the time-share program, the units, amenities and type of time shares then being made available to purchasers. The section shall include, without limitation, statements indicating:~~

~~1. The land area of the time-share project;~~

2. The number of units in the project;
3. The number of units in the project to be organized on a time-share basis;
4. An identification of units that are subject to time-sharing and the type of time shares being offered;
5. The duration of the time shares;
6. The different types of units available;
7. Provisions, if any, that have been made for public utilities in the time-share project, including water, electricity, telephone, and sewerage facilities;
8. Restrictions, if any, as to what changes a time-share owner may make to his unit in which his time share is located;
9. Whether or not the units are restricted solely to residential use;
10. The availability of vehicular parking spaces including the number of spaces available per unit and restrictions on or charges for the use of spaces; and
11. If the time-share project is subject to development rights, a brief description of those development rights including the land area and the maximum number of units that may be added and the maximum number of time-shares which may be created in those units.

18 VAC 135-40-220. Developer. (Repealed.)

A. The public offering statement shall contain a section captioned "The Developer." The section shall provide the name and principal address of the developer and shall contain a brief history of the developer with emphasis on its experience in time-share development.

B. The following information shall be stated with regard to every director, partner or trustee of the developer: (i) name and address; and (ii) principal occupation. The name and address of each person owning or controlling an interest of 20% or more in the time-share project shall also be indicated.

C. If applicable, this section shall disclose the particulars of any indictment, conviction, judgment, decree or order of any court or administrative agency against the developer for violation of a federal, state, local or foreign country law or regulation in connection with activities relating to time-share sales, land sales, land investments, security sales, construction or sale of homes or improvements or any similar or related activity.

D. This section shall also include a description of any unsatisfied judgements against the developer, the status of any pending suits involving the sale or management of real estate to which the developer or any general partner, executive officer, director, or majority stockholder thereof, is a defending party, and the status of any pending suites of significance to the time-share project.

E. The section shall include the name and address of the developer's agent for service of process who is authorized to accept notice of cancellation pursuant to § 55-376 of the Code of Virginia.

18 VAC 135-40-230. Terms of offering. (Repealed.)

A. The public offering statement shall contain a section captioned "Terms of Offering". The section shall discuss the expenses to be borne by a purchaser in acquiring a time share and present information as provided in subsections B through G of this section.

B. The section shall indicate the offering prices for time shares or a price range for time shares if either is established. The information required by this subsection will illustrate the relationship between time-share price and the season of the year during which the purchaser owns or has the right to use his time share.

C. The section shall provide a general description of any financing offered the purchaser by or through the developer. This discussion shall indicate that financing is subject to additional terms and conditions stated in the loan commitment. This section shall also include a statement that the developer's lien holder shall have its lien rights preserved as against a time-share purchaser who claims the time-share instrument is invalid, void or voidable, 30 days after written notice has been given by the developer to the purchaser. The section must further state that should the developer assign his receivables from purchaser, the time-share purchaser has 30 days in which to object to the validity of the time-share instrument or the assignment or be forever barred from raising such objection in any subsequent enforcement of the collection of the receivables from purchaser.

D. The section shall discuss in detail any settlement costs associated with the time-share purchase transaction including, without limitation, any contribution to the initial or working capital of the time-share program, title insurance premiums, recording costs and attorney's fees. A description of the purpose and method of calculating any such contribution shall also be provided.

E. The section shall discuss any penalties or forfeitures which may be incurred by a time-share purchase upon the purchaser's default of his purchase agreement.

F. The section shall discuss the right of the developer to cancel a purchase agreement upon failure of the developer to obtain purchase agreements on a given number or percentage of time shares being offered or upon failure of the developer to meet conditions precedent to obtaining necessary financing.

G. The section shall discuss the manner in which deposits are escrowed when a purchase or reservation of a time share occurs as required by § 55-375 of the Code of Virginia. The section shall contain the statement required by § 55-374 A 18 of the Code of Virginia.

18 VAC 135-40-240. Administration of time-share program. (Repealed.)

A. The public offering statement shall contain either a section captioned "Administration of Time-Share Estate Program" or a section captioned "Administration of Time-Share Use Program", depending upon the form of time shares being offered by the developer. The section shall discuss the manner in which the time-share program will be governed and administered.

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B. "Administration of time share estate program".

1. The section shall describe the functions and structure of the time share estate owners' association. The description shall indicate: (i) the existence or provisions for a governing body and officers; (ii) the manner of their election or appointment; (iii) the assignment or delegation of responsibility for performance of the functions of the unit owners' association; and (iv) those items outlined in § 55-368, numbered 2 through 10, of the Code of Virginia.

2. The section shall describe the allocation of voting power among the time share estate owners and shall explain how votes will be cast. Any provision in the time share instrument for regular or special meetings of the estate owners shall be mentioned.

3. The significant terms of any lease of recreational areas or similar contract or agreement affecting the use, maintenance or access of all or any part of the time share project, shall be stated. A brief narrative statement of the effect of each of any such agreements shall be included.

4. Rules and regulations for the use, enjoyment, and occupancy of units, and the authority to promulgate and amend such rules shall be discussed. Included shall be a description of the method, if any, to be employed to assign or reserve occupancy periods for the time share owners. Methods for providing alternate use periods or monetary compensation to a time share owner if his contracted for unit cannot be made available for the periods to which the owner is entitled by schedule or by confirmed reservation shall be discussed.

5. Any standing committees established or to be established to perform functions of the time share estate owners' association shall be discussed. Such committees include, without limitation, executive committees, architectural control committees and committees having the authority to interpret time share instruments or rules and regulations

6. Any power of the developer or of the time share estate owners' association to enter units shall be discussed. To the extent each is applicable, the following facts shall be stated: (i) a unit may be entered without notice to the time share owners; (ii) the developer or representatives or the time share estate owners' association are empowered to take actions or perform work in a unit without the consent of the time share owners; and (iii) the time share owners may be required to bear the costs of actions so taken or work so performed.

7. The section shall describe any routine janitorial procedures that are to occur between occupancy periods of time share owners, as well as any maintenance program that is to take place on an annual or semi-annual basis.

8. The managing agent, if any, shall be identified. If a managing agent is to be employed in the future, the criteria, if any, for selection of the managing agent shall be briefly stated. The section shall indicate any relationship between the managing agent and the developer or a member of the board of directors or an officer of the time share estate owners' association. The duration of any management agreement shall be stated.

9. The section shall discuss any retention by the developer of control over the time share estate owners' association. The association's power to pass special assessments against and raise the annual assessments of the time share owners upon the termination of the developer control shall also be discussed.

C. "Administration of time share use program". The section shall provide the information required by § 55-371 of the Code of Virginia. In addition, the section shall discuss, to the extent relevant, the matters raised by 18 VAC 135-40-240 B 3 through 8 of this chapter.

D. With respect to the managing entity of time share projects under either a time share estate program or time share use program, if applicable, this section shall disclose:

1. The particulars of any indictment conviction, judgment, decree or order of any court or administrative agency against the managing entity for violation of a federal state, local or foreign country law or regulation in connection with activities relating to time share sales, land sales, land investments, security sales, construction or sale of homes or improvements or any similar or related activity; and

2. The particulars of any unsatisfied judgments against the managing entity, the status of any pending suits involving the sale or management of real estate to which the managing entity is a defending party.

18 VAC 135-40-250. Finances. (Repealed.)

A. The public offering statement shall contain either a section captioned "Finances of Time Share Estate Ownership," or a section captioned "Finances of Time Share Use Ownership," depending upon the form of time share development used in the projects. The section shall discuss the expenses incident to the ownership of a time share in the manner provided in subsections B through H hereof.

B. The section shall describe the nature of the costs and expenses of operating the time share program and shall distinguish between those to be paid by the developer and those to be paid by the time share owners. The section shall explain how the responsibilities for payment of operating costs will be apportioned among the time share owners. In the case of a time share estate program, this section shall describe and distinguish between developer expenses and time share estate occupancy expenses as well as the meaning of the "Developer Control Period" as outlined in § 55-369 of the Code of Virginia, and when it commences and ends. Mention shall be made of the developer's right to collect a periodic fee from the time share estate owner for the payment of the latter expenses; the method of apportionment between time share estate owners shall be explained.

C. The section shall contain a statement describing any current or expected fees or charges to be paid by time share owners for the use and enjoyment of any facilities related to the project. This shall include, without limitation, any fee attributable to the use of recreational facilities mentioned in any time share document or during the marketing activities.

D. The section shall contain a statement describing the extent to which financial arrangements, if any, have been provided for completion of any time share unit offered for sale. The

section shall also contain, to the extent the developer has an obligation to complete, a statement and description of all planned improvements to the project whether begun or not yet begun.

~~E. The section shall describe any services which the developer provides or expenses it pays which may become at any subsequent time a time-share expense of the time-shares, and the projected time-share expense liability attributable to each of these services or expenses for each time-share.~~

~~F. In a time-share estate program where the developer control period has not yet terminated, the section shall contain the current balance sheet and a projected budget for the association for one year after the date of the first transfer to a purchaser. After that one year period, a current budget shall be included in lieu of the projected budget and current balance sheet mentioned above. All budgets shall be accompanied by a statement indicating the name of the preparer of the budget, and a statement explaining all budgetary assumptions concerning occupancy and inflation. All budgets must include, without limitation: (i) a statement of the amount, or a statement that there is no amount, included in the budget as a reserve for repairs and replacements; (ii) a statement of any other reserves (iii) the projected common expense liability for all time-share owners; (iv) the projected common expense liability by category of expenditures; and (v) a statement of the amount included in the budget reserved for repairs to and refurbishing of the project and the replacement of the personality situated therein.~~

~~G. The "Finances of Time Share Use Ownership" section shall, where the developer's net worth is less than \$250,000, include a current audited balance sheet or a statement by such developer that its equity in such program exceeds such amount.~~

~~H. The section shall discuss the effect of failure of a time-share owner to pay when due the assessments, fees or charges levied against his time-share. Such discussion shall indicate provisions for penalties to be applied in the case of overdue assessments including the lien authorized by § 55-370 B of the Code of Virginia, and for the acceleration of unpaid assessments.~~

18 VAC 135-40-260. Restrictions on transfer. (Repealed.)

~~The public offering statement shall include a section captioned "Restrictions on transfer". The section shall describe and explain any rights of first refusal, preemptive rights, limitations on leasing or other restraints on free alienability created by the time-share instruments or the rules and regulations which affect the time-share estate owners' or the time-share use owners' right to resell, lease or otherwise transfer an interest in his time-share estate or use.~~

18 VAC 135-40-270. Insurance. (Repealed.)

~~The public offering statement shall contain a section captioned "Insurance". The section shall described the insurance coverage provided for the benefit of time-share owners. Included shall be a discussion of the comprehensive general liability insurance for death, bodily injury, and property damage arising out of, or in connection with, the use and~~

~~enjoyment of units by time-share estate owners or time-share use owners or their guests. It shall be made clear that in the case of a time-share estate project the costs associated with this liability insurance will be borne by the developer during the developer control period, thereafter, the costs will be assumed by the time-share estate owners' association; and that in the case of a time-share use project, the costs associated with securing and maintaining such insurance shall be borne by the developer.~~

~~Depending on the time-share organization employed by the developer, comprehensive, general liability insurance required by §§ 55-368(7) or 55-371(7) of the Code of Virginia shall be included in this discussion.~~

18 VAC 135-40-280. Encumbrances. (Repealed.)

~~A. The public offering statement shall contain a section captioned "Encumbrances". The section shall contain a description of any liens, defects, or encumbrances on and adversely affecting the title of the project and the individual time-share estate units, and shall provide the information called for in subsections C through G below.~~

~~B. The section shall describe the extent to which a time-share unit may become subject to a tax or other lien arising out of claims against other owners of the same unit. The section shall discuss the consequences that the filing of federal tax liens would have on the project.~~

~~C. The section shall describe every mortgage, deed of trust, other perfected lien or mechanics' or materialman's lien affecting all or any portion of the time-share project other than those placed on time-share estate units by their purchasers. The description shall identify the lender secured or the lienholder, shall state the nature and original amount of the obligation secured, shall identify the party having primary responsibility for performance of the obligation secured, and shall indicate the practical effect upon unit owners of failure of said party to perform the obligation.~~

~~D. Normal easements for utilities, municipal rights-of-way and emergency access shall be described only as such, without reference to ownership, location or other details.~~

~~E. Easements reserved to the developer to facilitate expansion or sales shall be briefly described.~~

~~F. Easements reserved to the developer or to the time share estate owners' association or its representatives or agents for access to a unit shall be described. In the event that access to a unit may be had without notice to the unit owner, such fact shall be stated.~~

~~G. Easements across the time-share project reserved to the owners or occupants of land located in the vicinity of the project including, without limitation, easements for the use of recreational areas shall be described.~~

18 VAC 135-40-290. Exchange program. (Repealed.)

~~The public offering statement shall contain a section captioned "Exchange Program," if, at the time of purchase of a time-share, the purchaser is permitted or required to become a member of or a participant in an exchange program. This section shall contain the information required by § 55-374 B of~~

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the Code of Virginia. In the alternative, the developer may incorporate by reference the exchange company disclosure document if the exchange company has properly registered with the board and that document contains all the disclosures required by § 55-374 B of the Code of Virginia.

18 VAC 135-40-300. Taxes. (Repealed.)

A. ~~The public offering statement shall contain a section captioned "Taxes". The section shall describe all existing or proposed taxes to be levied against time shares individually including, without limitation, real property taxes, transient taxes and other special assessments. Taxes levied against the entire time share project shall be disclosed pursuant to 18 VAC 135-40-250 of this chapter. The section shall state who will be responsible for payment of taxes.~~

B. ~~With respect to local real property taxes and with reference to a time share estate project, the section shall state the assessed valuations of the time shares and the tax rate currently in effect. If assessed valuations have not yet been determined, the section shall state a procedure or formula by means of which the taxes may be estimated once assessed value has been determined. The section shall indicate the basis upon which the assessed value will be or was calculated, as set forth in § 55-363 C of the Code of Virginia.~~

18 VAC 135-40-310. Surrounding area. (Repealed.)

~~The public offering statement shall contain a section captioned "Surrounding Area". This section shall briefly describe the zoning of the immediate neighborhood of the time share project. The section may indicate the existence and proximity of community facilities available to time share owners.~~

18 VAC 135-40-320. Additional information. (Repealed.)

~~The public offering statement may include additional information as required by the Real Estate Board to assure full and accurate disclosure.~~

18 VAC 135-40-330. Substitute public offering statement. (Repealed.)

A. ~~A substitute public offering statement is a document originally prepared in compliance with the laws of another jurisdiction and modified in accordance with the provisions of this section in order to fulfill the disclosure requirements established for public offering statements by § 55-374 of the Code of Virginia. A substitute public offering statement shall not be employed in the case of a time share project located in Virginia.~~

B. ~~The substitute public offering statement shall be prepared by deleting from the original disclosure document: (i) references to any governmental agency of another jurisdiction to which application has been made or will be made for registration or related action; (ii) references to the action of such governmental agency relative to the time share project; (iii) statements of the legal effect in another jurisdiction of delivery, failure to deliver, acknowledgement of receipt or related events involving the disclosure document; (iv) the effective date or dates in another jurisdiction of the disclosure document; and (v) all other information which is untrue, inaccurate or misleading with respect to marketing offers or disposition of time share units in Virginia.~~

~~C. The substitute public offering statement shall incorporate all information not otherwise included which is necessary to effect fully and accurately the disclosures required by § 55-374 of the Code of Virginia. The substitute public offering statement shall clearly explain any nomenclature which is different from the definitions provided in § 55-362 of the Code of Virginia or which, for any other reason, may confuse purchasers in Virginia. Any information not required by § 55-374 of the Code of Virginia may be deleted, provided that such deletion does not render the required information misleading.~~

~~D. The first two pages of the substitute public offering statement document shall be prepared to conform as closely as possible to the specimen appended as Appendix A to these regulations and made a part of hereof. The three blanks in the first sentence of the third paragraph of the specimen shall be completed by insertion of the following information: (i) the designation by which the original disclosure document is identified in the jurisdiction pursuant to whose law it was prepared; (ii) the governmental agency of such other jurisdiction with which the original disclosure document is or will be filed; and (iii) the jurisdiction of such filing.~~

~~E. No portion of the substitute public offering statement may be underscored, italicized or printed in larger, heavier or different color type than the remainder of the substitute public offering statement disclosure document, except: (i) as required by subsection D hereof; (ii) as required or permitted in the original disclosure document by the laws of the jurisdiction pursuant to which it was prepared; and (iii) as provided by order of the board in cases in which it finds that the significance to purchasers of certain information requires that such information be disclosed more conspicuously than by regular presentation in the substitute public offering statement.~~

PART VI. CONVERSION PROJECT.

18 VAC 135-40-340. Public offering statement for conversion project; general provisions. (Repealed.)

~~The public offering statement for a conversion project shall conform in all ways to the requirements of 18 VAC 135-40-130 through 18 VAC 135-40-320 of this chapter. In addition, the public offering statement for a conversion project shall: (i) contain special disclosures in the narrative sections captioned "Description of the Time Share Project," "Terms of Offering," and "Finances of Time Share (Estate or Use) Ownership" and (ii) incorporate narrative sections captioned "Present Condition of the Time Share Project" and "Replacement Requirements". Provisions for such additional disclosure are set forth in 18 VAC 135-40-360 through 18 VAC 135-40-400 of this chapter.~~

18 VAC 135-40-350. Same; special definitions. (Repealed.)

~~As used in this section and in 18 VAC 135-40-360 through 18 VAC 135-40-400 of this chapter:~~

~~"Structural component" means a component constituting any portion of the structure of a time share unit or any other structure located in the time share project and in which a defect would reduce the stability or safety of all or part of~~

~~the structure below accepted standards or restrict the normal intended use of all or a part of the structure.~~

18 VAC 135-40-360. Description of the time-share project, conversion project. (Repealed.)

~~In addition to the information required by 18 VAC 135-40-210 of this chapter, the section captioned "Description of the time-share project" shall indicate that the time-share project is a conversion project. The term "conversion" shall be defined and the particular circumstances which bring the time-share project within the definition shall be stated. The nature and dates of prior occupancy of the property being converted shall be stated.~~

18 VAC 135-40-370. Terms of offering, conversion project. (Repealed.)

~~In addition to the information required by 18 VAC 135-40-230 of this chapter, the section captioned "Terms of Offering" shall contain a specific statement of the amount of any initial or special fee due from the purchaser of a time-share on or before settlement of the purchase contract and the basis for such fee. Such fees include, without limitation, a required contribution to: (i) the payment of costs of conversion in any manner other than through payment of the time-share offering price; and (ii) a reserve for capital expenditures.~~

18 VAC 135-40-380. Finances, conversion project. (Repealed.)

~~A. In addition to the information required by 18 VAC 135-40-250 of this chapter, the section captioned "Finances of Time Share [Estate or Use] Ownership" shall contain the information set forth in subsections B and C hereof.~~

~~B. The actual expenditures made on operation, maintenance, repair or upkeep of each converted building within the last three years shall be set forth in tabular form and included in the proposed budget of the project. The expenditures shall be cumulatively broken down on a per time-share unit basis and on a per time-share basis in proportion to any relative voting rights in the association, if any allocated to the time shares. If such building has not been occupied for the entire three-year period, then the information shall be set forth for the maximum period the building has been occupied during the three-year period.~~

~~C. The section shall include a description of any provisions made in the budget for reserves for capital expenditures and an explanation of the basis for such reserves. If any part of the capital reserves will or may be obtained other than through either regular or special assessments, such fact shall be stated. If no provision is made in the budget for these reserves, a statement to that effect shall be included. In the case of a time-share estate program, the section shall state the amount of capital reserves which is intended to be accumulated by the time-share estate owners' association during the developer control period together with any provisions in the time-share documents specifying the rate at which reserves are to be accumulated thereafter.~~

18 VAC 135-40-390. Present condition of time-share project. (Repealed.)

~~A. The section captioned "Present Condition of Time Share Project" shall contain a statement of the approximate dates of original construction or installation of all structural components and major utility installations in the time-share project. For the purposes of Part VI of this chapter, such components and installations shall be referred to as the "physical assets." A single construction or installation date may be stated for all of the physical assets: (i) in the time-share projects; (ii) within a distinctly identifiable portion of the time-share projects; or (iii) within a distinctly identifiable category of physical assets. A statement made pursuant to the preceding sentence shall include a separate reference to the construction or installation date of any physical asset within a stated group of physical assets which was constructed or installed significantly earlier than the construction or installation date indicated for the group generally. No statement shall be made that a physical asset or a portion thereof has been repaired, altered, improved or replaced subsequent to its construction or installation unless the approximate date, nature and extent of such repair, alteration, improvement or replacement is also stated.~~

~~B. Subject to the exceptions provided in subsections B, E and F hereof, the section captioned "Present Condition of the Time Share Project" shall contain a description of the present condition of all physical assets within the time-share project. The description of present condition shall disclose all structural defects and incapacities of major utility installations to perform their intended functions as would be observable, detectable or deducible by means of standard inspection and investigative techniques employed by architects or professional engineers, as the case may be.~~

~~C. The section shall indicate any known dates of inspection by means of which the described present condition was determined; provided, however, that such inspection shall have been conducted not more than one year prior to the date of filing the application for registration. The section shall identify the party or parties by whom the present condition was ascertained and shall indicate the relationships of such party or parties to the developer.~~

~~D. A single statement of the present condition of a class of physical assets shall suffice to disclose the present condition of each physical asset within the class; provided, however, that unless subsection E hereof applies, such statement shall include a separate reference to the present condition of any physical asset within the class which is significantly different from the present condition indicated for the class generally.~~

~~E. The description of present condition may include a statement that all structural components in the time-share project or in a distinctly identifiable portion thereof are in sound condition except those for which structural defects are noted.~~

~~F. In a case in which there are numerous physical assets within a class of physical assets and inspection of each such physical asset is impracticable, the description of present condition of all the physical assets within the class may be based upon an inspection of a number of them selected at~~

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random, provided that the number selected is large enough to yield a reasonably reliable sample and the total number of physical assets within the class and the number selected are disclosed.

18 VAC 135-40-400. Replacement requirements. (Repealed.)

A. Subject to the exception provided in subsection B hereof, the section captioned "Replacement requirements" shall state the useful lives of all physical assets in the time share project. The section shall state that expected useful lives run from the date of inspection by means of which the expected useful lives were determined. Such inspection date shall be stated.

B. A single statement of the expected useful life of a class of physical assets shall suffice to disclose the expected useful life of each physical asset within the class; provided, however, that such statement shall include a separate reference to the expected useful life of any physical asset within such class which is significantly shorter than the expected useful life indicated for the class generally.

C. An expected useful life may be qualified. A qualified expected useful life is an expected useful life expressly conditioned upon a given use or level of maintenance or other factor affecting longevity. No use, level of maintenance or other factor affecting longevity shall be stated as a qualification unless such use, level of maintenance or factor is normal or reasonably anticipated for the physical asset involved. If appropriate, an expected useful life may be stated as being indefinite, subject to the stated qualifications that the physical asset involved must be properly used and maintained. An expected useful life may be stated as being within a range of years, provided that the range is not so broad as to render the statement meaningless.

D. The section shall state the replacement costs of all physical assets in the time share project including those whose expected useful lives are stated as being indefinite. The replacement costs shall be broken down on a per unit basis or a per time share basis. A statement of the replacement costs of a representative member of a class of physical assets shall suffice to disclose the replacement cost of each physical asset within the class; provided, however, that such statement shall include a separate reference to the replacement cost of any physical asset within the class which is significantly greater than the replacement cost indicated for the representative member of the class.

PART VII. POST-REGISTRATION PROVISIONS.

18 VAC 135-40-410. Material change defined. (Repealed.)

As used in 18 VAC 135-40-420 through 18 VAC 135-40-450 of this chapter "material change" shall mean a change in any information or document disclosed in or attached to a public offering statement whose form and content are designated for use pursuant to 18 VAC 135-40-70 C or 18 VAC 135-40-430 B which renders such information or document substantially inaccurate, incomplete or misleading. Any changes occurring in the real estate tax assessment or rate, utility charges, common maintenance fees, association dues, assessments or other similar recurring expense items shall not be deemed a

material change; provided, however, such information shall be then current when the public offering statement is prepared and submitted to the board and shall be updated at least on an annual basis.

The issuance of the updated exchange company's annual report shall not constitute a material change; except, however, upon receipt thereof by the developer, it shall commence distribution of same in lieu of all others in order to satisfy § 55-374(b) of the Code of Virginia.

Without limiting the generality of the preceding sentence, a material change shall be deemed to occur whenever (i) information or a document required to be disclosed in or attached to a public offering statement but not so disclosed or attached by reason of its previous unavailability or nonexistence becomes available or comes into existence and (ii) a new budget is adopted in a project where time share estates are sold.

18 VAC 135-40-420. Amendment of public offering statement; material change.

A. Prior to or upon *Within 20 business days of* the occurrence of a material change, ~~or as soon thereafter as possible as defined by § 55-362 of the Code of Virginia~~, the developer shall amend the public offering statement to disclose the modified or additional information and to include the modified or additional document, as the case may be. The developer may amend the public offering statement other than in connection with a *each occurrence constituting the* material change.

B. An amendment of the public offering statement, *necessitated by the occurrence of a material change*, may be accomplished in any intelligible manner and, to the extent that strict compliance with any of the *other* provisions of ~~these regulations~~ *this chapter* governing the form of presentation of information in the public offering statement would be unduly burdensome, the developer may deviate therefrom in amending the public offering statement, provided that (i) no such deviation shall be more extensive than is necessary and appropriate under the circumstances, (ii) the requirements of 18 VAC 135-40-140 and 18 VAC 135-40-190 of this chapter are strictly observed and (iii) the presentation of information in the amended public offering statement is organized so as to facilitate reading and comprehension. Nothing contained herein *in this chapter* shall authorize a deviation from strict compliance with a ~~provision of these regulations~~ *this chapter* governing the substance of disclosure in the public offering statement. If any information has ~~been~~ *become* inaccurate or misleading by reason of the material change ~~and is not~~, *such information shall be* deleted from the public offering statement in connection with its amendment, such fact shall be clearly noted or amended in such a way to make the information accurate and not misleading.

C. Correction of spelling, grammar, omission, or other similar errors not affecting the substance of a public offering statement shall not be deemed either a material change or an amendment of the public offering statement for the purposes of these regulations; provided, however, the developer shall file with the board a copy of a public offering statement so corrected.

18 VAC 135-40-430. Filing of amended public offering statement.

A. The developer shall promptly file with the board a copy of an amended public offering statement. ~~Unless subsection D hereof applies, the developer shall, as a part of such filing, update the application for registration on file with the board either by filing a new application or by advising the board of changes in the information contained in a previously filed application or file new or substitute documents. In the case of a public offering statement (i) amended other than in connection with a material change or (ii) presumed current pursuant to 18 VAC 135-40-450 of this chapter the filing shall indicate the date of amendment. The filing shall be dated by the developer and its receipt dated by the board. The amended public offering statement shall be effective upon its receipt by the board.~~

~~B. Unless subsection D hereof applies, the board shall issue a notice of filing within five business days following receipt in proper form of the materials required by subsection A hereof. The board shall review the amended public offering statement and supporting materials to determine whether the amendment complies with 18 VAC 135-40-420 of this chapter. At such time as the board affirmatively determines that the amendment complies with 18 VAC 135-40-420 of this chapter but not later than the 30th day following issuance of the notice of filing, it shall enter an order designating the amended form and content of the public offering statement to be used. Such order shall provide that previous orders designating the form and content of the public offering statement for use are superseded.~~

~~C. If the board determines, pursuant to subsection B hereof, that an amendment to the public offering statement does not comply with 18 VAC 135-40-420 of this chapter it shall immediately, but in no event later than the 20th day following issuance of the notice of filing enter an order declaring the amendment not in compliance with 18 VAC 135-40-420 of this chapter and specifying the particulars of such noncompliance. In the case of a public offering statement amended other than in connection with a material change, the order shall relate back to the date of amendment. If neither of the orders provided for by this subsection C and subsection B hereof are entered within the time allotted, the amendment shall be deemed to comply with 18 VAC 135-40-420 of this chapter. The developer may, at a time, correct and refile an amended public offering statement; provided, however, that if an order of noncompliance has been entered with respect to the amendment, all of the provisions of subsections A and B hereof and this subsection C shall apply to such refiling.~~

~~D. If the material change which resulted in amendment of the public offering statement was an expansion of the time-share project, the developer shall file an amendment to the application for registration of the additional units, provided, that no such amendment need be filed for units previously registered. Any such amendment to the application for registration shall be subject to all of the provisions of Part II (18 VAC 135-40-50 et seq.) and the board shall observe the procedures of 18 VAC 135-40-430 of this chapter in regard to the application. Documents then on file with the board and not changed in connection with the creation of additional units~~

~~need not be refiled, provided that the amendment indicates that such documents are unchanged.~~

~~E. In each case in which an amendment B. When an amended document is filed pursuant to this section and the manner of its amendment is with the board, and the amendments are not apparent on the face of the document, the developer shall provide an indication of the manner and extent of amendment document shall be redlined, highlighted or otherwise marked to indicate the changes.~~

18 VAC 135-40-440. Current public offering statement. (Repealed.)

~~A. A public offering statement is current if the board has designated it for use pursuant to either 18 VAC 135-40-70 C or 18 VAC 135-40-430 B of this chapter. The public offering statement remains current so long as no material change occurs.~~

~~B. A public offering statement ceases to be current upon the occurrence of a material change, and subject to the exception provided in 18 VAC 135-40-450 of this chapter, does not thereafter become current unless and until (i) it is amended pursuant to 18 VAC 135-40-420 of this chapter and (ii) the board, with respect to such amendment, enters an order pursuant to 18 VAC 135-40-70 C or 18 VAC 135-40-430 B or fails to enter, within the times allotted therefor, any of the orders provided for by 18 VAC 135-40-430 B and C of this chapter.~~

~~C. If the board determines that a public offering statement amended other than in connection with a material change fails to comply with 18 VAC 135-40-420 of this chapter that public offering statement ceases to be current as of the date of amendment. Such cessation shall be affected retroactively by the board's entry of an order of noncompliance and nothing contained herein shall limit the developer's right to use the public offering statement as current prior to the entry of an order of noncompliance. The public offering statement does not thereafter become current unless and until it is corrected and refiled and the board, with respect to such amendment, enters an order pursuant to 18 VAC 135-40-430 B or fails to enter either of the orders provided for by 18 VAC 135-40-430 B or C of this chapter.~~

18 VAC 135-40-450. Certain amended public offering statements presumed current. (Repealed.)

~~A. A public offering statement amended by the developer to disclose any material change which is an aspect or result of the orderly development of the time share project or the normal functioning of the time share estate owners' association shall be presumed current immediately upon its amendment, subject, however, to the condition that the board shall subsequently determine that the amendment was made in compliance with 18 VAC 135-40-420 of this chapter. An amended public offering statement presumed current pursuant to this subsection shall be referred to elsewhere in these regulations as a presumptively current public offering statement.~~

~~B. The developer shall file with the board a copy of a presumptively current public offering statement and all of the provisions of 18 VAC 135-40-430 of this chapter shall apply to~~

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~~such filing except that, in addition, (i) the filing shall be made no later than 20 business days following the occurrence of the material change which necessitated the amendment and (ii) the filing shall indicate the developer's plans, if any, to deliver the presumptively current public offering statement to purchasers pursuant to § 55-376 of the Code of Virginia.~~

~~C. A board order declaring that an amendment which resulted in a presumptively current public offering statement is not in compliance with 18 VAC 135-40-420 of this chapter shall render ineffective the presumption that the public offering statement is current. In that event, the public offering statement shall be deemed to have ceased being current upon the occurrence of the material change which necessitated the amendment. Nothing contained herein shall limit the developer's right to use a presumptively current public offering statement prior to entry of the order of noncompliance. A presumptively current public offering statement also ceases being current upon the developer's failure to file within the time provided in subsection B hereof, but such cessation shall have no retroactive effect. A presumptively current public offering statement which ceases pursuant to this subsection does not thereafter become current unless and until it is filed or refiled with the board pursuant to 18 VAC 135-40-430 of this chapter and the board with respect to such public offering statement, enters an order pursuant to 18 VAC 135-40-430 B or fails to enter, within the times allotted therefor, any of the orders provided for in 18 VAC 135-40-430 subsections B and C of this chapter.~~

18 VAC 135-40-460. Public offering statement not current; notification of purchasers. (Repealed.)

~~As required by § 55-376 C of the Code of Virginia, the developer shall notify every purchaser under contract who has not yet settled and to whom has been delivered a public offering statement which was subsequently determined not to have been current at the time of its delivery. Such notification shall indicate that any contract for disposition of a time share may be cancelled unless and until the developer complies with the provisions of 55-374 E of the Code of Virginia. The developer shall file a copy of the notification with the board and provide proof that all purchasers then under contract were given the opportunity to cancel their contracts to purchase a time share.~~

18 VAC 135-40-470. Annual report by developer. (Repealed.)

~~A. Within 30 days prior to each anniversary date of the effective date of registration the developer shall file with the board an annual report in the form required by the board.~~

~~B. The report shall reflect any material change in the information contained in the original application for registration or supplemental registration application and shall be accompanied by the required fee.~~

~~C. If the time share project is a time share estate project and the developer control period is still in effect for any portion of the project, the developer shall append to the annual report the time share owners' association annual report required by § 55-370.1 of the Code of Virginia.~~

18 VAC 135-40-480. Termination of registration. (Repealed.)

~~A. At any time, upon petition filed by the developer the board shall enter an order of termination, which order shall become effective upon issuance of the order by the board.~~

~~B. In a time share estate project, if the annual report or petition of the developer filed with the board indicates that the developer has transferred to the time share owners' association title to all or any portion of the time share project and that no further development rights exist therein by the developer, the board shall forthwith issue an order terminating the registration of such portion as a time share project.~~

~~C. Prior to termination of registration, all bonds filed with the board in compliance with the Real Estate Time Share Act must be released.~~

PART VIII. EXCHANGE PROGRAMS.

18 VAC 135-40-490. Application for registration. (Repealed.)

~~Application for registration of time share exchange companies shall be filed at the offices of the board. The application shall contain all of the documents and information required by § 55-374.2 of the Code of Virginia. Each application for registration shall be submitted on the standard application form. The application shall be accompanied by the fee established by 18 VAC 135-40-80 D of this chapter.~~

18 VAC 135-40-500. Disclosure document. (Repealed.)

~~The exchange company shall prepare and file with the board a disclosure document which will be distributed to all time share purchasers who opt to participate in the exchange program. Not more than one version of the disclosure document shall be authorized for use at any given time with respect to a particular exchange program.~~

18 VAC 135-40-510. Preparation of the disclosure document; readability. (Repealed.)

~~The disclosure document shall be clear, understandable and as brief as is consistent with full and accurate disclosure. In no event shall the disclosure document be made so lengthy or detailed to discourage close examination. Determination as to compliance with the standards of this section are within the exclusive discretion of the board.~~

18 VAC 135-40-520. Nature of information to be included. (Repealed.)

~~A. The contents of the disclosure document required by § 55-374.2 A of the Code of Virginia shall be strictly construed to promote full and accurate disclosure.~~

~~B. The requirements for disclosure are not exclusive. In addition to expressly required information, the applicant shall disclose all other available information which may reasonably be expected to affect the decision of the ordinarily prudent time share purchaser to accept or reject membership in the exchange program. The exchange company shall disclose any additional information necessary to make the required information not misleading. No information may be presented~~

~~in such a fashion as to obscure the facts, to encourage a misrepresentation of the facts or otherwise to mislead a prospective member of the exchange program.~~

~~C. No information shall be incorporated by reference to an extrinsic source which is not readily available to the prospective member. Whenever required information is not known or not reasonably available, such fact shall be stated in the disclosure document with a brief explanation. Whenever special circumstances exist which would render required disclosure inaccurate or misleading, the required disclosure shall be omitted, provided that such modification or omission promotes full and accurate disclosure.~~

~~D. The disclosures required by § 55-374.2 A (1) through (18) of the Code of Virginia may be in any order selected by the applicant and may be in a supplement to a larger brochure published by the exchange company, provided nothing in the larger brochure is in variance to that information contained in such supplement.~~

18 VAC 135-40-530. Annual report. (Repealed.)

~~On or before July 1 of each year, an exchange company whose exchange program has been registered by the board must file an annual report which updates the registration and disclosure document filed with the board. Such report shall be accompanied by the fee established by 18 VAC 135-40-80 D of this chapter.~~

NOTICE: The forms used in administering 18 VAC 135-40, Time-Share Regulations, are not being published due to the number of pages; however, the name of each form is listed below. The forms are available for public inspection at the Real Estate Board, 3600 W. Broad Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

FORMS

Appendix A -- *Public Offering Statement.*

Application for Registration of Time-Share.

VA.R. Doc. No. R01-118; Filed July 8, 2002, 11:23 a.m.

* * * * *

Title of Regulation: 18 VAC 135-50. Fair Housing Regulations (amending 18 VAC 135-50-10, 18 VAC 135-50-30, 18 VAC 135-50-70 through 18 VAC 135-50-120, 18 VAC 135-50-140, 18 VAC 135-50-160 through 18 VAC 135-50-210, 18 VAC 135-50-220, 18 VAC 135-50-270, 18 VAC 135-50-290, 18 VAC 135-50-300, 18 VAC 135-50-330, 18 VAC 135-50-350, 18 VAC 135-50-390, 18 VAC 135-50-400, 18 VAC 135-50-420, 18 VAC 135-50-440, 18 VAC 135-50-450, 18 VAC 135-50-470, 18 VAC 135-50-480, and 18 VAC 135-50-510; adding 18 VAC 135-50-212, 18 VAC 135-50-215, and 18 VAC 135-50-217; repealing 18 VAC 135-50-40, 18 VAC 135-50-50, 18 VAC 135-50-130, 18 VAC 135-50-150, 18 VAC 135-50-230, 18 VAC 135-50-240, 18 VAC 135-50-250, 18 VAC 135-50-310, 18 VAC 135-50-330, 18 VAC 135-50-340, 18 VAC 135-50-360, 18 VAC 135-50-370, 18 VAC 135-50-380, 18 VAC 135-50-460, 18 VAC 135-50-530,

18 VAC 135-50-540, and 18 VAC 135-50-560 through 18 VAC 135-50-590).

Statutory Authority: §§ 36-96.20 C and 54.1-2105 of the Code of Virginia.

Public Hearing Date: September 11, 2002, 1 p.m.

Public comments may be submitted until 5 p.m. on September 30, 2002.

(See Calendar of Events section for additional information)

Agency Contact: Karen W. O'Neal, Deputy Director, Real Estate Board, 3600 W. Broad Street, Richmond, VA 23230, telephone (804) 367-8537, FAX (804) 367-2475 or e-mail oneal@dpor.state.va.us.

Basis: Virginia's Fair Housing Office is under the auspices of the Department of Professional and Occupational Regulation (DPOR). The Fair Housing Office investigates allegations of housing discrimination and functions as the investigative arm of Virginia's Real Estate Board. Section 54.1-2105 A of the Code of Virginia provides that the board may do all things necessary and convenient for carrying into effect the provisions of the chapter and may promulgate necessary regulations. Furthermore, since this explanation addresses the board's authority to amend fair housing regulations, reference is made to § 36-96.20 C which states that "the Board shall perform all acts necessary and proper to carry out the provisions of this chapter and may promulgate and amend regulations." The board's authority is discretionary.

Purpose: One of the fundamental needs of all citizens is for safe and affordable housing. In this regard it is the policy of the Commonwealth of Virginia to provide for fair housing throughout the Commonwealth, to all its citizens regardless of race, color, religion, national origin, sex, elderliness, familial status or handicap, and to that end to prohibit discriminatory practices with respect to residential housing by a person or group of persons, in order that the peace, health, safety, prosperity, and general welfare of all inhabitants of the Commonwealth may be protected and ensured. This law shall be deemed an exercise of the police power of the Commonwealth of Virginia for the protection of the people of the Commonwealth (§ 36-96.1 of the Code of Virginia). Fair housing regulations are, therefore, among the most important because they safeguard one of our most fundamental needs, housing.

Numerous discrepancies currently exist between the fair housing law and the fair housing regulations. In some instances fair housing regulations include language that the General Assembly deleted from the law. In other instances regulations are missing language that the General Assembly added to the law. In still other instances the regulations repeat verbatim what the law states, which is duplicative and unnecessary. The board is, therefore, proposing to amend its fair housing regulations to make them consistent with the fair housing law and to delete certain regulations that are duplicative of the law and, as such, are unnecessary.

Substance: In 18 VAC 135-50-70, language that is duplicative of § 36-96.3 A 1-9 of the Code of Virginia is deleted.

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18 VAC 135-50-80 is amended to add discriminatory terms or references and to clarify language.

18 VAC 135-50-90 and 18 VAC 135-50-100 are amended to clarify discriminatory conduct.

18 VAC 135-50-150 is deleted as duplicative of § 36-96.4 of the Code of Virginia.

18 VAC 135-50-210 is amended to conform the regulation to § 36-96.7 of the Code of Virginia.

18 VAC 135-50-270 is amended to conform the regulation to § 36-96.3 3 of the Code of Virginia.

18 VAC 135-50-300 clarifies the complaint filing procedure.

18 VAC 135-50-310 is deleted as duplicative of § 36-96.9 of the Code of Virginia.

18 VAC 135-50-330, 18 VAC 135-50-340, 18 VAC 135-50-360, 18 VAC 135-50-370, 18 VAC 135-50-380 and 18 VAC 135-50-460 are deleted to provide regulatory flexibility.

Subsections B and C of 18 VAC 135-50-440 are deleted to conform the regulation to statutory changes that removed from the law the requirement that investigations of complaints be completed within one year of receiving the complaint.

In 18 VAC 135-50-450, language that is duplicative of § 36-96.10 of the Code of Virginia is deleted.

18 VAC 135-50-530 and 18 VAC 135-50-560 are deleted as duplicative of § 36-96.11 of the Code of Virginia.

18 VAC 135-50-540 is deleted as duplicative of § 36-96.17 of the Code of Virginia.

18 VAC 135-50-570 is deleted to conform the regulation to statutory changes that removed from the law the requirement that investigations of complaints be completed within one year of receiving the complaint. The section is otherwise duplicative of §§ 36-96.11 and 36-96.12 of the Code of Virginia.

18 VAC 135-50-580 and 18 VAC 135-50-590 are deleted as duplicative of § 36-96.14 of the Code of Virginia.

The board is also supplementing the Housing for Older Persons Regulation (18 VAC 135-50-210) to conform it more closely to parts of the Housing for Older Persons Act of 1995 passed by Congress. The board proposes to add three sections to the regulations, one that addresses a facility's intent to operate as housing for older persons (18 VAC 135-50-212), one that addresses verification of occupancy in housing for older persons facilities (18 VAC 135-50-215), and one that addresses the good faith defense against civil money damages (18 VAC 135-50-217).

Issues: The advantage to the public and the Commonwealth resulting from the proposed regulatory changes are twofold:

1. The proposed regulatory changes will reduce inconsistencies between the fair housing regulations and the fair housing law allowing the public and the Commonwealth to be better served; and
2. Additions to the Housing for Older Persons regulation clarify state law as it relates to federal law, which should

also better serve the public and the Commonwealth. There are no apparent disadvantages to the proposed changes.

Department of Planning and Budget's Economic Impact Analysis: The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007 G of the Administrative Process Act and Executive Order Number 25 (98). Section 2.2-4007 G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the proposed regulation. The fair housing regulations have not been revised since 1991.¹ Since then, the General Assembly has amended provisions of fair housing law in the Code of Virginia (Code) on five occasions. The Real Estate Board (board) proposes to amend the regulations to reflect changes in the Code and federal law that have occurred since 1992.

Estimated economic impact. All of the board's proposed changes to the regulations are made to either make the regulations consistent with the Code and federal law, or to eliminate redundant language. None of the changes add or subtract requirements or details of procedure beyond that which is already explicit in the Code and federal law. Since the proposed changes do not affect policy, no new costs or benefits are produced.

Businesses and entities affected. The fair housing regulations potentially affect all consumers of housing in Virginia, i.e., all seven million citizens of the Commonwealth, as well as business and individuals involved in the provision of housing, i.e., landlords, home sellers, realtors, banks, mortgage brokers, insurance companies, etc.

Localities particularly affected. No locality is particularly affected by the proposed amendments.

Projected impact on employment. The proposed changes will not affect employment.

Effects on the use and value of private property. The proposed amendments will not affect the use and value of private property.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The agency concurs with the economic impact analysis performed by the Department of Planning and Budget.

Summary:

The proposed amendments (i) make numerous changes to conform the regulation with changes made by the General Assembly since 1992; (ii) reflect changes in federal law that

¹ Source: Department of Professional and Occupational Regulation.

have occurred since 1992, including adding language to conform the regulation with the federal Housing for Older Persons Act of 1995; (iii) eliminate language that is duplicative of current law; and (iv) clarify language relating to discriminatory conduct.

18 VAC 135-50-10. Definitions.

The definitions provided in the Virginia Fair Housing Law, as they may be supplemented herein, shall apply throughout this chapter.

The following words and terms used in this chapter have the following meanings, unless the context clearly indicates otherwise:

"Authorized representative" means (i) an attorney licensed to practice law in the Commonwealth, or (ii) a law student appearing in accordance with the third-year student practice rule, or (iii) a non-lawyer under the supervision of an attorney and acting pursuant to Part 6, § 1, Rule 1 (UPR 1-101(A)(1)) of the Rules of the Supreme Court of Virginia, or (iv) a person who, without compensation, advises a complainant, respondent, or aggrieved person in connection with a complaint, a conciliation conference or proceeding before the board. When a complainant, respondent, or aggrieved person authorizes a person to represent him under subdivision (iv) of this definition, such authority shall be made to the board, in writing or orally in an appearance before the board, and shall be accepted by the representative by sending a written acknowledgement to the board or by the representative's appearance before the board.

"Board" means the Real Estate Board.

"Broker" or *"agent"* means any person authorized to perform an action on behalf of another person regarding any matter related to the sale or rental of dwellings, including offers, solicitations or contracts and the administration of matters regarding such offers, solicitations or contracts or any residential real estate-related transactions.

"Department" means the Virginia Department of Professional and Occupational Regulation.

~~*"Fair housing law"* means the Virginia Fair Housing Law, Chapter 5.1 (§ 36-96.1 et seq.) of Title 36 of the Code of Virginia, effective July 1, 1991.~~

"Fair housing administrator" means the individual employed and designated as such by the Director of the Department of Professional and Occupational Regulation.

~~*"Fair housing law"* means the Virginia Fair Housing Law, Chapter 5.1 (§ 36-96.1 et seq.) of Title 36 of the Code of Virginia, effective July 1, 1991.~~

~~*"Handicap"* is defined in 18 VAC 135-50-200 of this chapter.~~

~~*"Housing for older persons"* means housing: (i) provided under any state or federal program that the secretary of the Department of Housing and Urban Development determines is specifically designed and operated to assist elderly persons; (ii) intended for, and solely occupied by, persons 62 years of age or older; or (iii) intended and operated for occupancy by at least one person 55 years of age or older per unit.~~

"Person in the business of selling or renting dwellings" means any person who (i) within the preceding 12 months, has participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein; (ii) within the preceding 12 months, has participated as agent, other than in the sale of his own personal residence, in providing sales or rental facilities or sales or rental services in two or more transactions involving the sale or rental of any dwelling or any interest therein; or (iii) is the owner of any dwelling designed or intended for occupancy by or occupied by, five or more families.

~~*"Real estate-related transactions"* means: (i) the making or purchasing of loans or providing other financial assistance (a) for purchasing, constructing, improving, repairing or maintaining a dwelling; (b) secured by residential real estate; or (ii) the selling, brokering, insuring or appraising of residential real property.~~

"Receipt of notice" means the day that personal service is completed by handing or delivering a copy of the document to an appropriate person or the date that a document is delivered by certified mail, or three days after the date of the proof of mailing of first class mail.

18 VAC 135-50-30. General construction.

This chapter shall be construed to further the policies and purposes of the Virginia Fair Housing Law. The board does not intend that a failure by the board to comply with this chapter should constitute a jurisdictional or other bar to administrative or legal action unless otherwise required under this chapter or the law. The board *further* intends that this chapter shall impose obligations, rights and remedies which are substantially equivalent to those provided by the federal fair housing law and regulations.

18 VAC 135-50-40. Authority. (Repealed.)

~~This chapter is promulgated pursuant to the authority conferred on the Real Estate Board under the Virginia Fair Housing Law.~~

18 VAC 135-50-50. Scope. (Repealed.)

~~It is the policy of Virginia to provide, within constitutional limitations, for fair housing throughout the Commonwealth and to provide rights and remedies substantially equivalent to those granted under federal law. No person shall be subject to discriminatory housing practices because of race, color, religion, sex, handicap, elderliness, familial status, or national origin in the sale, rental, advertising of dwellings, inspection of dwellings or entry into a neighborhood, in the provision of brokerage services, financing or the availability of residential real estate-related transactions.~~

18 VAC 135-50-70. Real estate practices prohibited.

A. This chapter provides the board's interpretation of conduct that is unlawful housing discrimination under § 36-96.3 of the Code of Virginia. The list "...having the right to sell, rent, lease, control, construct or manage..." of unlawful discriminatory housing practices contained in § 36-96.3 of the Virginia Fair Housing Law is to be construed as broadly as possible. In general, the prohibited actions are set forth under sections of these regulations which are most applicable to the

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discriminatory conduct described. However, an action illustrated in one section can constitute a violation under other sections in these regulations.

B. It shall be unlawful to:

- ~~1. Refuse to sell or rent a dwelling after a bona fide offer has been made, or to refuse to negotiate for the sale or rental of a dwelling because of race, color, religion, sex, familial status, elderliness or national origin, or to discriminate in the sale or rental of a dwelling because of handicap.~~
- ~~2. Discriminate in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with sales or rentals, because of race, color, religion, sex, handicap, familial status, elderliness or national origin.~~
- ~~3. Engage in any conduct relating to the provision of housing which otherwise makes unavailable or denies dwellings to persons because of race, color, religion, sex, handicap, familial status, elderliness or national origin.~~
- ~~4. Make, print or publish, or cause to be made, printed or published, any notice, statement, or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination because of race, color, religion, sex, handicap, familial status, elderliness or national origin, or an intention to make any such preference, limitation or discrimination.~~
- ~~5. Represent to any person because of race, color, religion, sex, handicap, familial status, elderliness or national origin that a dwelling is not available for sale or rental when such dwelling is in fact available.~~
- ~~6. Engage in blockbusting practices in connection with the sale or rental of dwellings because of race, color, religion, sex, handicap, familial status, elderliness or national origin.~~
- ~~7. Deny access to or membership or participation in, or to discriminate against any person in his access to or membership or participation in, any multiple listing service, real estate brokers' association, or other service organization or facility relating to the business of selling or renting a dwelling or in the terms or conditions or membership or participation, because of race, color, religion, sex, handicap, familial status, elderliness or national origin.~~

~~C. The application of the fair housing law with respect to persons with handicaps is discussed in 18 VAC 135-50-200.~~

18 VAC 135-50-80. Unlawful refusal to sell or rent or to negotiate for the sale or rental.

~~A. It shall be unlawful for a person to refuse to sell or rent a dwelling to a person who has made a bona fide offer, because of race, color, religion, sex, familial status, elderliness, or national origin, or to refuse to negotiate with a person for the sale or rental of a dwelling because of race, color, religion, sex, familial status, elderliness, or national origin, or to discriminate against any person in the sale or rental of a dwelling because of handicap.~~

~~B. Prohibited actions under this section include, but are not limited to:~~

- ~~1. Failing to accept or consider a bona fide offer because of race, color, religion, sex, handicap, familial status, elderliness, or national origin.~~
- ~~2. Refusing to sell or rent a dwelling to, or to negotiate for the sale or rental of a dwelling with, any person because of race, color, religion, sex, handicap, familial status, elderliness, or national origin.~~
- ~~3. 1. Imposing different sales prices or rental charges for the sale or rental of a dwelling upon any person because of race, color, religion, sex, handicap, familial status, elderliness, or national origin.~~
- ~~4. 2. Using different qualification criteria or applications, or sale or rental standards or procedures, such as income standards, application requirements, application fees, credit analysis or sale or rental approval procedures or other requirements, because of race, color, religion, sex, handicap, familial status, elderliness, or national origin.~~
- ~~5. 3. Evicting tenants because of their race, color, religion, sex, handicap, familial status, elderliness, or national origin or because of the race, color, religion, sex, handicap, familial status, elderliness, or national origin of a tenant's guest.~~

~~NOTE: § 36-96.2 D of the Virginia Fair Housing Law provides that "Nothing in this chapter prohibits conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined in federal law."~~

18 VAC 135-50-90. Discrimination in terms, conditions and privileges and in services and facilities.

~~A. It shall be unlawful, because of race, color, religion, sex, handicap, familial status, elderliness, or national origin to impose different terms, conditions or privileges relating to the sale or rental of a dwelling or to deny or limit services or facilities in connection with the sale or rental of a dwelling.~~

~~B. Prohibited actions under this section include, but are not limited to:~~

- ~~1. Using different provisions in leases or contracts of sale, such as those relating to rental charges, security deposits and the terms of a lease and those relating to down payment and closing requirements, because of race, color, religion, sex, handicap, familial status, elderliness, or national origin.~~
- ~~2. Failing or delaying maintenance or repairs of sale or rental dwellings because of race, color, religion, sex, handicap, familial status, elderliness, or national origin.~~
- ~~3. Failing to process an offer for the sale or rental of a dwelling or to communicate an offer accurately because of race, color, religion, sex, handicap, familial status, elderliness, or national origin.~~
- ~~4. 3. Limiting the use of privileges, services or facilities associated with a dwelling because of the race, color,~~

religion, sex, handicap, familial status, elderliness or national origin of an owner, tenant or a person associated with him.

~~5-~~ 4. Denying or limiting services or facilities in connection with the sale or rental of a dwelling, because a person failed or refused to provide sexual favors.

18 VAC 135-50-100. Other prohibited sale and rental conduct.

A. It shall be unlawful, because of race, color, religion, sex, handicap, familial status, elderliness, or national origin to restrict or attempt to restrict the choices of a person by word or conduct in connection with seeking, negotiating for, buying or renting a dwelling so as to perpetuate, or tend to perpetuate, segregated housing patterns, or to discourage or obstruct choices in a community, neighborhood, or development.

Prohibited actions under subsection A of this section which are generally referred to as unlawful steering practices, include, ~~but are not limited to:~~

1. Discouraging any person from inspecting, purchasing, or renting a dwelling because of race, color, religion, sex, handicap, familial status, elderliness, or national origin or because of the race, color, religion, sex, handicap, familial status, elderliness, or national origin of persons in a community, neighborhood or development.

~~2. Discouraging the purchase or rental of a dwelling because of race, color, religion, sex, handicap, familial status, elderliness, or national origin by exaggerating drawbacks or failing to inform any person of desirable features of a dwelling or of a community, neighborhood, or development.~~

~~3-~~ 2. Communicating to any prospective purchaser that he would not be comfortable or compatible with existing residents of a community, neighborhood or development because of race, color, religion, sex, handicap, familial status, elderliness, or national origin.

~~4-~~ 3. Assigning any person to a particular section of a community, neighborhood or development or to a particular floor or section of a building because of race, color, religion, sex, handicap, familial status, elderliness, or national origin.

B. It shall be unlawful because of race, color, religion, sex, handicap, familial status, elderliness, or national origin to engage in any conduct relating to the provision of housing or of services and facilities in connection therewith that otherwise makes unavailable or denies dwellings to persons.

Prohibited activities relating to dwellings sales and rental practices under ~~subsection B of this section~~ *subsection* include, ~~but are not limited to:~~

1. Discharging or taking other adverse action against an employee, broker, or agent because he refused to participate in a discriminatory housing practice.

2. Employing codes or other devices to segregate or reject applicants, purchasers or renters, refusing to take or to show listings of dwellings in certain areas because of race, color, religion, sex, handicap, familial status, elderliness, or

national origin or refusing to deal with certain brokers or agents because they or one or more of their clients are of a particular race, color, religion, sex, handicap, familial status, elderliness, or national origin.

3. Denying or delaying the processing of an application made by a purchaser or renter or refusing to approve such a person for occupancy in a cooperative or condominium dwelling because of race, color, religion, sex, handicap, familial status, elderliness, or national origin.

4. Refusing to provide municipal services or property or hazard insurance for dwelling or providing such services or insurance differently because of race, color, religion, sex, handicap, familial status, elderliness, or national origin.

18 VAC 135-50-110. Discriminatory advertisements, statements and notices.

A. It shall be unlawful to make, print or publish, or cause to be made, printed or published, any notice, statement, or advertisement with respect to the sale or rental of a dwelling which indicates any preference, limitation or discrimination because of race, color, religion, sex, handicap, familial status, elderliness, or national origin, or an intention to make any such preference, limitation, or discrimination.

~~B. The prohibitions in this section shall apply to all written or oral notices or statements by a person engaged in the sale or rental of a dwelling. Written notices and statements include any applications, flyers, brochures, deeds, signs, banners, posters, billboards, or any documents used with respect to the sale or rental of a dwelling.~~

~~C. B.~~ Discriminatory notices, statements, and advertisements include, ~~but are not limited to:~~

1. Using words, phrases, photographs, illustrations, symbols, or forms which convey that dwellings are available or not available to a particular group of persons because of race, color, religion, sex, handicap, familial status, elderliness or national origin.

2. Expressing to agents, brokers, employees, prospective sellers, or renters or any other persons a preference for or limitation on any purchaser or renter because of race, color, religion, sex, handicap, familial status, elderliness, or national origin of such person.

3. Selecting media or locations for advertising the sale or rental of dwelling which deny particular segments of the housing market information about housing opportunities because of race, color, religion, sex, handicap, familial status, elderliness, or national origin.

4. Refusing to publish advertising for the sale or rental of dwellings or requiring different charges or terms for such advertising because of race, color, religion, sex, handicap, familial status, elderliness, or national origin.

~~D. C.~~ Publishers' notice. All publishers ~~should~~ *shall* publish at the beginning of the real estate advertising section a notice such as that appearing in Table III, Appendix I to ~~Part 109, 24 CFR Part 109, Ch. 1 (4-1-89 4-1-00 edition)~~. The notice ~~may~~ *shall* include a statement regarding the coverage of any local

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fair housing or human rights ordinance prohibiting discrimination in the sale, rental or financing of dwellings.

~~E~~ D. Fair housing poster requirements.

1. Persons subject. Except to the extent that ~~18 VAC 135-50-110 E 1 b~~ subdivision 2 of this subsection applies, all persons subject to § 36-96.3 of the Virginia Fair Housing Law, Unlawful Discriminatory Housing Practices, shall post and maintain a HUD approved fair housing poster as follows:

a. With respect to a single-family dwelling (not being offered for sale or rental in conjunction with the sale or rental of other dwellings) offered for sale or rental through a real estate broker, agent, salesman, or person in the business of selling or renting dwellings, such person shall post and maintain a fair housing poster at any place of business where the dwelling is offered for sale or rental.

b. With respect to all other dwellings covered by the *Virginia Fair Housing Law*: (i) a fair housing poster shall be posted and maintained at any place of business where the dwelling is offered for sale or rental, and (ii) a fair housing poster shall be posted and maintained at the dwelling, except that with respect to a single-family dwelling being offered for sale or rental in conjunction with the sale or rental of other dwellings, the fair housing poster may be posted and maintained at the model dwellings or at a conspicuous location instead of at each of the individual dwellings.

c. With respect to those dwellings to which subdivision 1 b of this ~~section~~ subsection applies, the fair housing poster must be posted at the beginning of construction and maintained throughout the period of construction and sale or rental.

2. ~~This part shall not require posting and maintaining a fair housing poster. The poster a. On requirement does not apply to vacant land, or~~

~~b. At any single-family dwelling, unless such dwelling (i) is being offered for sale or rental in conjunction with the sale or rental of other dwellings in which circumstances a fair housing poster shall be posted and maintained as specified in subdivision 1 b (ii) of this subsection, or (ii) is being offered for sale or rental through a real estate broker, agent, salesman, or person in the business of selling or renting dwellings in which circumstances a fair housing poster shall be posted and maintained as specified in subdivision 1 a of this subsection.~~

~~c~~ 3. All persons subject to § 36-96.4 of the Virginia Fair Housing Law, Discrimination in Residential Real Estate-Related Transactions, shall post and maintain a fair housing poster at all their places of business which participate in the covered activities.

~~d~~ 4. All persons subject to 18 VAC 135-50-140, Discrimination in the Provision of Brokerage Services, shall post and maintain a fair housing poster at all their places of business.

~~3~~ 5. Location of posters. All fair housing posters shall be prominently displayed so as to be readily apparent to all

persons seeking housing accommodations or seeking to engage in residential real estate-related transactions or brokerage services.

4. 6. Availability of posters. All persons subject to this part may obtain fair housing posters from the Virginia Department of Professional and Occupational Regulation. A facsimile may be used if the poster and the lettering are equivalent in size and legibility to the poster available from the Department of Professional and Occupational Regulation. Any person who claims to have been injured by a discriminatory housing practice may file a complaint with the administrator pursuant to Part III of this chapter.

~~5. A failure to display the fair housing poster as required by this section shall be deemed prima facie evidence of a discriminatory housing practice.~~

~~6. Additional fair housing advertising guidelines are found in 18 VAC 135-50-230 through 18 VAC 135-50-290.~~

18 VAC 135-50-120. Discriminatory representations on the availability of dwellings.

A. It shall be unlawful, because of race, color, religion, sex, handicap, familial status, elderliness, or national origin, to provide inaccurate or untrue information about the availability of dwelling for sale or rental.

B. Prohibited actions under this section include, ~~but are not limited to:~~

1. Indicating through words or conduct that a dwelling which is available for inspection, sale, or rental has been sold or rented, because of race, color, religion, sex, handicap, familial status, elderliness, or national origin.

2. Representing that covenants or other deed, trust, or lease provisions which purport to restrict the sale or rental of dwellings because of race, color, religion, sex, handicap, familial status, elderliness, or national origin preclude the sale or rental of a dwelling to a person.

3. Enforcing covenants or other deed, trust, or lease provisions which preclude the sale or rental of a dwelling to any person because of race, color, religion, sex, handicap, familial status, elderliness, or national origin.

4. Limiting information by word or conduct regarding suitably priced dwellings available for inspection, sale or rental, because of race, color, religion, sex, handicap, familial status, elderliness, or national origin.

5. Providing false or inaccurate information regarding the availability of a dwelling for sale or rental to any person, including testers, regardless of whether such person is actually seeking housing, because of race, color, religion, sex, handicap, familial status, elderliness, or national origin.

18 VAC 135-50-130. Blockbusting. (Repealed.)

~~A. It shall be unlawful to induce or attempt to induce a person to sell or rent a dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, familial status, elderliness, or national origin or with a handicap.~~

~~B. Prohibited actions under this section include, but are not limited to:~~

~~1. Engaging in conduct (including uninvited solicitations for listing) which conveys to a person that a neighborhood is undergoing or is about to undergo a change in the race, color, religion, sex, handicap, familial status, elderliness, or national origin of persons residing in it, in order to encourage the person to offer a dwelling for sale or rental.~~

~~2. Encouraging any person to sell or rent a dwelling through assertions that the entry or prospective entry of persons of a particular race, color, religion, sex, familial status, elderliness or national origin, or with handicaps, can or will result in undesirable consequences for the project, neighborhood or community, such as a lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools or other services or facilities.~~

18 VAC 135-50-140. Discrimination in the provision of brokerage services.

~~A. It shall be unlawful to deny any person access to or membership or participation in any multiple listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against any person in the terms or conditions of such access, membership or participation, because of race, color, religion, sex, handicap, familial status, elderliness, or national origin.~~

~~B. Prohibited actions under this section include, but are not limited to:~~

~~1. Setting different fees for access to or membership in a multiple listing service based on race, color, religion, sex, handicap, familial status, elderliness, or national origin.~~

~~2. Denying or limiting benefits accruing to members in a real estate brokers' organization because of race, color, religion, sex, handicap, familial status, elderliness, or national origin.~~

~~3. Imposing different standards or criteria for membership in a real estate sales, rental, or exchange organization because of race, color, religion, sex, handicap, familial status, elderliness, or national origin.~~

~~4. Establishing geographic boundaries or office location or residence requirements for access to or membership or participation in any multiple listing service, real estate brokers' organization or other service, organization or facility relating to the business of selling or renting dwellings, because of race, color, religion, sex, handicap, familial status, elderliness, or national origin.~~

18 VAC 135-50-150. Discriminatory practices in residential real estate-related transactions. (Repealed.)

~~It shall be unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, religion, sex, handicap, familial status, elderliness or national origin.~~

~~The term "residential real estate transactions" means (i) the making or purchasing of loans or providing other financial assistance (a) for purchasing, constructing, improving, repairing or maintaining a dwelling; (b) secured by residential real estate; or (ii) the selling, brokering, insuring or appraising of residential real property.~~

18 VAC 135-50-160. Discrimination in the making of loans and in the provision of other financial assistance.

~~A. It shall be unlawful for any person or entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available loans or other financial assistance for a dwelling, or which is or is to be secured by a dwelling, because of race, color, religion, sex, handicap, familial status, elderliness, or national origin.~~

~~B. Prohibited practices under this section include, but are not limited to, failing or refusing to provide to any person, in connection with a residential real estate-related transaction, information regarding the availability of loans or other financial assistance, application requirements, procedures or standards for the review and approval of loans or financial assistance, or providing information which is inaccurate or different from that provided others, because of race, color, religion, sex, handicap, familial status, elderliness or national origin.~~

18 VAC 135-50-170. Discrimination in the purchasing of loans.

~~A. It shall be unlawful for any person or entity engaged in the purchasing of loans or other debts or securities which support the purchase, construction, improvement, repair or maintenance of a dwelling, or which are secured by residential real estate, to refuse to purchase such loans, debts, or securities, or to impose different terms or conditions for such purchases, because of race, color, religion, sex, handicap, familial status, elderliness or national origin.~~

~~B. Unlawful conduct under this section includes, but is not limited to:~~

~~1. Purchasing loans or other debts or securities which relate to, or which are secured by dwellings in certain communities or neighborhoods but not in others because of the race, color, religion, sex, handicap, familial status, elderliness, or national origin of persons in such neighborhoods or communities.~~

~~2. Pooling or packaging loans or other debts or securities which relate to, or which are secured by, dwellings differently because of race, color, religion, sex, handicap, familial status, elderliness, or national origin.~~

~~3. Imposing or using different terms or conditions on the marketing or sale of securities issued on the basis of loans or other debts or securities which relate to, or which are secured by, dwellings because of race, color, religion, sex, handicap, familial status, elderliness, or national origin.~~

~~C. This section does not prevent consideration, in the purchasing of loans, of factors justified by business necessity, including requirements of federal law, relating to a transaction's financial security or to protection against default or reduction of the value of the security. Thus, this provision~~

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would not preclude considerations employed in normal and prudent transactions, provided that no such factor may in any way relate to race, color, religion, sex, handicap, familial status, elderliness, or national origin.

18 VAC 135-50-180. Discrimination in the terms and conditions for making available loans or other financial assistance.

A. It shall be unlawful for any person or entity engaged in the making of loans or in the provision of other financial assistance relating to the purchase, construction, improvement, repair or maintenance of dwellings or which are secured by residential real estate to impose different terms or conditions for the availability of such loans or other financial assistance because of race, color, religion, sex, handicap, familial status, elderliness, or national origin.

B. Unlawful conduct under this section includes, ~~but is not limited to:~~

1. Using different policies, practices or procedures in evaluating or in determining credit worthiness of any person in connection with the provision of any loan or other financial assistance for a dwelling or for any loan or other financial assistance which is secured by residential real estate because of race, color, religion, sex, handicap, familial status, elderliness, or national origin.
2. Determining the type of loan or other financial assistance to be provided with respect to a dwelling, or fixing the amount, interest rate, duration or other terms for a loan or other financial assistance for a dwelling or which is secured by residential real estate because of race, color, religion, sex, handicap, familial status, elderliness, or national origin.

18 VAC 135-50-190. Unlawful practices in the selling, brokering, or appraising of residential real property.

A. It shall be unlawful for any person or other entity whose business includes engaging in the selling, brokering or appraising of residential real property to discriminate against any person in making available such services, or in the performance of such services, because of race, color, religion, sex, handicap, familial status, elderliness, or national origin.

B. For the purposes of this section the term "appraisal" means an estimate or opinion of the value of a specified residential real property made in a business context in connection with the sale, rental, financing or refinancing of a dwelling or in connection with any activity that otherwise affects the availability of a residential real estate-related transaction, whether the appraisal is oral or written, or transmitted formally or informally. The appraisal includes all written comments and other documents submitted as support for the estimate or opinion of value.

~~C. Nothing in this section prohibits a person engaged in the business of making or furnishing appraisals of residential real property from taking into consideration factors other than race, color, religion, sex, handicap, familial status, elderliness, or national origin.~~

~~D. C. Practices which are unlawful under this section include, but are not limited to, using an appraisal of residential real property in connection with the sale, rental, or financing of any~~

dwelling where the person knows or reasonably should know that the appraisal improperly takes into consideration race, color, religion, sex, handicap, familial status, elderliness, or national origin.

18 VAC 135-50-200. General prohibitions against discrimination because of handicap.

A. Definitions. As used in ~~18 VAC 135-50-200~~ *this section* unless a different meaning is plainly required by the context:

"*Accessible*," when used with respect to the public and common use areas of a building containing covered multi-family dwellings, means that the public or common use areas of the building can be approached, entered, and used by individuals with physical handicaps. The phrase "readily accessible to and usable by" is synonymous with "accessible." A public or common use area that complies with the appropriate requirements of ANSI A117.1-1986 or with any other standards adopted as part of regulations promulgated by HUD providing accessibility and usability for physically handicapped people is accessible within the meaning of this section.

"*Accessible route*" means a continuous unobstructed path connecting accessible elements and spaces in a building or within a site that can be negotiated by a person with a severe disability using a wheelchair and that is also safe for and usable by people with other disabilities. Interior accessible routes may include corridors, floors, ramps, elevators and lifts. Exterior accessible routes may include parking access aisles, curb ramps, walks, ramps and lifts. A route that complies with the appropriate requirements of ANSI A117.1-1986, or with any other standards adopted as part of regulations promulgated by HUD, is an "accessible route."

"*ANSI A117.1*" means the American National Standard for buildings and facilities providing accessibility and usability for physically handicapped people. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be obtained from American National Standards Institute, Inc., 1430 Broadway, New York, New York 10018.

"*Building*" means a structure, facility or portion thereof that contains or serves one or more dwelling units.

"*Building entrance on an accessible route*" means an accessible entrance to a building that is connected by an accessible route to public transportation stops, to accessible parking and passenger loading zones, or to public streets or sidewalks, if available. A building entrance that complies with ANSI A117.1 or a comparable standard complies with the requirements of this paragraph.

"*Common use areas*" shall include, ~~but not be limited to~~ rooms, spaces, or elements inside or outside of a building which are not part of the dwelling unit and which are made available for the use of residents of a building or the guests thereof. These areas include hallways, lounges, lobbies, laundry rooms, refuse rooms, mailrooms, recreational areas and passageways among and between buildings.

"*Controlled substance*" means any drug or other substance, ~~or immediate precursor included in the definition in § 102 of the~~

~~Controlled Substances Act (21 U.S.C. 802) as defined in Virginia or federal law.~~

~~"Covered multi-family dwellings" means buildings consisting of four or more dwelling units if such buildings have one or more elevators, and ground floor dwellings units in other buildings consisting of four or more dwelling units.~~

~~"Dwelling unit" means a single unit of residence for a family or one or more persons. Examples of dwelling units include: a single family home; an apartment unit within an apartment building; and in other types of dwellings in which sleeping accommodations are provided but toileting or cooking facilities are shared by occupants of more than one room or portion of the dwelling, rooms in which people sleep. Examples of the latter include dormitory rooms and sleeping accommodations in shelters intended for occupancy as a residence for homeless persons.~~

~~"Entrance" means any access point to a building or portion of a building used by residents for the purpose of entering.~~

~~"Exterior" means all areas of the premises outside of an individual dwelling unit.~~

~~"First occupancy" means a building that has never before been used for any purpose.~~

~~"Ground floor" means a floor of a building with a building entrance on an accessible route. A building may have more than one ground floor.~~

~~"Handicap" means, with respect to a person, a physical or mental impairment which substantially limits one or more major life activities; a medical or psychological record of such an impairment; or being regarded as having such an impairment. This term does not include current, illegal use of or addiction to a controlled substance as defined in Virginia or federal law. For purposes of this part, an individual shall not be considered to have a handicap solely because that individual is a transvestite.~~

~~As used in this definition:~~

~~"Physical or mental impairment" includes:~~

~~1. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or~~

~~2. Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, Human Immunodeficiency Virus infection, mental retardation, emotional illness, drug addiction (other than addiction caused by current, illegal use of a controlled substance) and alcoholism.~~

~~"Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.~~

~~"Has a record of such an impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.~~

~~"Is regarded as having an impairment" means:~~

~~1. Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by another person as constituting such a limitation;~~

~~2. Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of other toward such impairment; or~~

~~3. Has none of the impairments defined in "physical or mental impairment" but is treated by another person as having such an impairment.~~

~~"Interior" means the spaces, parts, components or elements of an individual dwelling unit.~~

~~"Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.~~

~~"Modification" means any change to the public or common use areas of a building or any change to a dwelling unit.~~

~~"Physical or mental impairment" includes:~~

~~1. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or~~

~~2. Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, Human Immunodeficiency Virus infection, mental retardation, emotional illness, drug addiction (other than addiction caused by current, illegal use of a controlled substance) and alcoholism.~~

~~"Premises" means the interior or exterior spaces, parts, components or elements of a building, including individual dwelling units and the public and common use areas of a building.~~

~~"Public use areas" means interior or exterior rooms or spaces of a building that are made available to the general public. Public use may be provided at a building that is privately or publicly owned.~~

~~"Site" means a parcel of land bounded by a property line or a designated portion of a public right of way.~~

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~~"Standard for Accessibility and Usability for Physically Handicapped People" Compliance with the appropriate requirements of the American National Standard for building and facilities commonly cited as "ANSI A117.1" or with any other standard adopted as part of regulations promulgated by HUD providing accessibility and usability for physically handicapped people.~~

B. General prohibitions against discrimination because of handicap.

~~1. It shall be unlawful to discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap of:~~

~~a. That buyer or renter;~~

~~b. A person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or~~

~~c. Any person associated with that person.~~

~~2. It shall be unlawful to discriminate against any person in the terms, conditions, or privileges of the sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a handicap of:~~

~~a. That buyer or renter;~~

~~b. A person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or~~

~~c. Any person associated with that person.~~

~~3. 1. It shall be unlawful to make an inquiry to determine whether an applicant for a dwelling, a person intending to reside in that dwelling after it is so sold, rented or made available, or any person associated with that person, has a handicap or to make inquiry as to the nature or severity of a handicap of such a person. However, this subdivision does not prohibit the following inquiries, provided these inquiries are made of all applicants, whether or not they have handicaps:~~

~~a. Inquiry into an applicant's ability to meet the requirements of ownership or tenancy;~~

~~b. Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with handicaps or to persons with a particular type of handicap;~~

~~c. Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with handicaps or to persons with a particular type of handicap;~~

~~d. Inquiring whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance;~~

~~e. Inquiring whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance.~~

~~4. 2. Nothing in 18 VAC 135-50-200 B this subsection requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or themselves, or whose~~

tenancy would result in substantial physical damage to the property of others.

~~5. Housing cannot be denied because of current, illegal use of or addiction to a controlled substance which is not on the federal list of controlled substances, even if it is on the Virginia list of controlled substances.~~

C. Reasonable modifications of existing premises.

1. It shall be unlawful for any person to refuse to permit, at the expense of a handicapped person, reasonable modifications of existing premises, occupied or to be occupied by a handicapped person, if the proposed modifications may be necessary to afford the handicapped person full enjoyment of the premises of a dwelling. In the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted. The landlord may not increase for handicapped persons any customarily required security deposit. However, where it is necessary in order to ensure with reasonable certainty that funds will be available to pay for the restorations at the end of the tenancy, the landlord may negotiate as part of such a restoration agreement a provision requiring that the tenant pay into an interest bearing escrow account, over a reasonable period, a reasonable amount of money not to exceed the cost of the restorations. The interest in any such account shall accrue to the benefit of the tenant.

2. A landlord may condition permission for a modification on the renter providing a reasonable description of the proposed modifications as well as reasonable assurances that the work will be done in a workmanlike manner and that any required building permits will be obtained.

~~D. Reasonable accommodations. It shall be unlawful for any person to refuse to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford a handicapped person equal opportunity to use and enjoy a dwelling unit, including public and common use areas.~~

~~E. D. Design and construction requirements. 4. Covered multi-family dwellings for first occupancy after March 13, 1991, shall be designed and constructed to have at least one building entrance on an accessible route unless it is impractical to do so because of the terrain or unusual characteristics of the site. For purposes of this section, a covered multi-family dwelling shall be deemed to be designed and constructed for first occupancy on or before March 13, 1991, if they are occupied by that date or if the last building permit or renewal thereof for the covered multi-family dwellings is issued by a state, county or local government on or before June 15, 1990. The burden of establishing impracticality because of terrain or unusual site characteristics is on the person or persons who designed or constructed the housing facility.~~

~~2. All covered multi-family dwellings for first occupancy after March 13, 1991, with a building entrance on an accessible route shall be designed and constructed in such a manner that:~~

~~a. The public and common use areas are readily accessible to and usable by handicapped persons;~~

~~b. All the doors designed to allow passage into and within all premises are sufficiently wide to allow passage by handicapped persons in wheelchairs; and~~

~~c. All premises within covered multi-family dwelling units contain the following features of adaptable design:~~

~~(1) An accessible route into and through the covered dwelling unit;~~

~~(2) Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;~~

~~(3) Reinforcements in bathroom walls to allow later installation of grab bars around the toilet, tub, shower, stall and shower seat, where such facilities are provided; and~~

~~(4) Usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.~~

~~3. Compliance with the appropriate requirements of ANSI A117.1-1986, or with any other standards adopted as part of regulations promulgated by HUD providing accessibility and usability for physically handicapped people, suffices to satisfy the requirements of subdivision 2 c of this subsection.~~

18 VAC 135-50-210. Housing for older persons.

Nothing in the Virginia Fair Housing Law regarding unlawful discrimination because of familial status shall apply to housing for older persons. As used in this section, "housing for older persons" includes:

1. Housing provided under any state or federal program determined by the Secretary of Housing and Urban Development to be specifically designed and operated to assist elderly persons;

2. 62 or over housing. The provisions regarding familial status in these regulations shall not apply to housing intended for, and solely occupied by persons 62 years of age or older. Housing satisfies the requirements of this exemption even though:

a. There are persons residing in such housing on September 13, 1988, who are under 62 years of age, provided that all new occupants are persons 62 years of age or older;

b. There are unoccupied units, provided that such units are reserved for occupancy by persons 62 years of age or older;

c. There are units occupied by employees of the housing (and family members residing in the same unit) who are under 62 years of age provided they perform substantial duties directly related to the management or maintenance of the housing.

3. 55-or-over housing. The provisions regarding familial status shall not apply to housing intended and operated for occupancy by at least one person 55 years of age or older

per unit, provided that the housing satisfies the *following* requirements of subdivision 3 a or b of this subsection and the requirements of subdivision 3 c of this subsection:

~~a. The housing facility has significant facilities and services specifically designed to meet the physical or social needs of older persons. "Significant facilities and services specifically designed to meet the physical or social needs of older persons" may include, but are not limited to, social and recreational programs, continuing education, information and counseling, recreational, homemaker, outside maintenance and referral services, an accessible physical environment, emergency and preventive health care programs, congregate dining facilities, transportation to facilitate access to social services, and services designed to encourage and assist residents to use the services and facilities available to them (the housing facility need not have all of these features to qualify for the exemption under this section); or~~

~~b. It is not practicable to provide significant facilities and services designed to meet the physical or social needs of older persons and the housing facility is necessary to provide important housing opportunities for older persons. In order to satisfy this requirement, the owner or manager of the housing facility must demonstrate through credible and objective evidence that the provision of significant facilities and services designed to meet the physical or social needs of older persons would result in depriving older persons in the relevant geographic area of needed and desired housing. The following factors, among others, are relevant in meeting the requirements of this subdivision:~~

~~(1) Whether the owner or manager of the housing facility has endeavored to provide significant facilities and services designed to meet the physical or social needs of older persons either by the owner or by some other entity. Demonstrating that such services and facilities are expensive to provide is not alone sufficient to demonstrate that the provision of such services is not practicable.~~

~~(2) The amount of rent charged, if the dwellings are rented, or the price of the dwellings, if they are offered for sale;~~

~~(3) The income range of the residents of the housing facility;~~

~~(4) The demand for housing for older persons in the relevant geographic area;~~

~~(5) The range of housing choices for older persons within the relevant geographic area;~~

~~(6) The availability of other similarly priced housing for older persons in the relevant geographic area. If similarly priced housing for older persons with significant facilities and services is reasonably available in the relevant geographic area, then the housing facility does not meet the requirements of subdivision 2 b of this subsection;~~

~~(7) The vacancy rate of the housing facility.~~

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~~6.~~(4) a. At least 80% of the *occupied* units in the housing facility are occupied by at least one person 55 years of age or older per unit except that a newly constructed housing facility for first occupancy after March 12, 1989, need not comply with this subdivision 2 c (1) of this subsection section until 25% of the units in the facility are occupied; and.

~~(2) The owner or manager of a housing facility publishes and adheres to policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older. The following factors, among others, are relevant in determining whether the owner or manager of a housing facility has complied with the requirements of this subdivision:~~

~~The manner in which the housing facility is described to prospective tenants.~~

~~The nature of any advertising designed to attract prospective residents.~~

~~Age verification procedures.~~

~~Lease provisions.~~

~~Written rules and regulations.~~

~~Actual practices of the owner or manager in enforcing relevant lease provisions and relevant rules or regulations.~~

(1) For purposes of this section, "occupied unit" means:

(a) A dwelling unit that is actually occupied by one or more persons on the date that the exemption for 55-or-older housing is claimed; or

(b) A temporarily vacant unit, if the primary occupant has resided in the unit during the past year and intends to return on a periodic basis.

(2) For purposes of this section, occupied by at least one person 55 years of age or older means that on the date the exemption for 55-or-older housing is claimed:

(a) At least one occupant of the dwelling is 55 years of age or older; or

(b) If the dwelling unit is temporarily vacant, at least one of the occupants immediately prior to the date of which the unit was vacated was 55 years of age or older.

(3) Newly constructed housing for first occupancy after March 12, 1989, need not comply with the requirements of this section until at least 25% of the units are occupied. For purposes of this section, newly constructed housing includes facilities or communities that have been wholly unoccupied for at least 90 days prior to reoccupancy due to renovation or rehabilitation.

~~d.~~ b. Housing satisfies the requirements of the 55 or older exemption even though:

~~(1) On September 13, 1988, under 80% of the occupied units in the housing facility are occupied by at least one~~

~~person 55 years of age or older per unit, provided that at least 80% of the units that are occupied by new occupants after September 13, 1988, are occupied by at least one person 55 years of age or older.~~

~~(2) There are unoccupied units, provided that at least 80% of such units are reserved for occupancy by at least one person 55 years of age or over.~~

~~(3) (1) There are units occupied by employees of the housing facility or community (and family members residing in the same unit) who are under 55 years of age provided they the employees perform substantial duties directly related to the management or maintenance of the housing facility or community.~~

~~(2) There are units occupied by persons who are necessary to provide a reasonable accommodation to disabled residents and who are under the age of 55.~~

~~(3) Reserves all unoccupied units for occupancy by at least one person 55 years of age or older until at least 80% of the units are occupied by at least one person who is 55 years of age or older.~~

c. Where application of the 80% rule results in a fraction of a unit, that unit shall be considered to be included in the units that must be occupied by at least one person 55 years of age or older.

d. Each housing facility or community may determine the age restriction for units that are not occupied by at least one person 55 years of age or older so long as the housing facility or community complies with the provisions of 18 VAC 135-50-220.

18 VAC 135-50-212. Intent to operate as 55 or over housing.

A. In order for a housing facility or community to qualify as 55-or-older housing, it must publish and adhere to policies and procedures that demonstrate its intent to operate as housing for persons 55 years of age or older. The following factors are considered relevant in determining whether the housing facility or community has complied with this requirement:

1. The manner in which the housing facility or community is described to prospective residents;

2. Any advertising designed to attract prospective residents;

3. Lease provisions;

4. Written rules, regulations, covenants, deeds or other restrictions;

5. The maintenance and consistent application of relevant procedures;

6. Actual practices of the housing facility or community; and

7. Public posting in common areas of statements describing the facility or community as housing for persons 55 years of age or older.

B. Phrases such as "adult living," "adult community," "40-and-over community," or similar statements in any written advertisement or prospectus are not consistent with the intent

that the housing facility or community intends to operate as housing for persons 55 years of age or older.

C. If there is language in deeds or other community or facility documents that is inconsistent with the intent to provide housing for persons who are 55 years of age or older, the board shall consider documented evidence of a good faith attempt to remove such language in determining whether the housing facility or community complies with the requirements of this section.

D. A housing facility or community may allow occupancy by families with children as long as it meets the requirements of 18 VAC 135-50-210 3 a and subsection A of this section.

18 VAC 135-50-215. Verification of occupancy.

A. In order for a housing facility or community to qualify as 55-or-older housing, it must be able to produce, in response to a housing complaint filed under the Virginia Fair Housing Law, verification of compliance with these regulations through reliable surveys and affidavits.

B. A facility or community shall, within 180 days of the effective date of this rule, develop procedures for routinely determining the occupancy of each unit, including the identification of whether at least one occupant of each unit is 55 years of age or older. Such procedures may be part of a normal leasing or purchasing arrangement.

C. The procedures described in subsection B of this section must provide for regular updates through surveys or other means, of the initial information supplied by the occupants of the housing facility or community. Such updates must take place at least once every two years.

D. The following documents are considered reliable documentation of the age of the occupants of the housing facility or community.

1. Driver's license;
2. Birth certificate;
3. Passports;
4. Immigration cards;
5. Military identification;
6. Any other state, local, national or international official documents containing a birth date of comparable reliability; or
7. A certification in a lease, application, affidavit, or other document signed by an adult member of the household asserting that at least one person in the unit is 55 years of age or older.

E. If the occupants of a unit refuse to comply with the age verification procedures, the housing facility or community may, if it has sufficient evidence, consider the unit occupied by at least one person 55 years of age or older. Such evidence may include:

1. Government records or documents, such as a census; or
2. Prior forms or applications; or

3. A statement from an individual who has personal knowledge of the age of the occupants. The individual's statement must set forth the basis for such knowledge and be signed under penalty of perjury.

F. Surveys and verification procedures that comply with the requirements of this section shall be admissible in administrative and judicial proceedings for the purpose of verifying occupancy.

G. Occupancy surveys shall be available for inspection upon reasonable notice and request by any person.

18 VAC 135-50-217. Good faith defense against civil money damages.

A. A person shall not be held personally liable for monetary damages for discriminating on the basis of familial status, if the person acted with the good faith belief that the housing facility or community qualified as 55-or-older housing.

B. A person claiming the good faith belief defense must have actual knowledge that the housing facility or community has, through an authorized representative, asserted in writing that it qualifies as 55-or-older housing.

C. For purposes of this section, an authorized representative, of a housing facility or community means the individual, committee, management company, owner, or other entity having responsibility for adherence to the requirements established by these regulations.

D. A person shall not be entitled to the good faith belief defense if the person has actual knowledge that the housing facility or community does not, or will not qualify as 55-or-older housing. Such a person will be ineligible for the good faith belief defense regardless of whether the person received or viewed the written assurance described in subsection B of this section.

18 VAC 135-50-220. Interference, coercion or intimidation.

A. This section provides the board's interpretation of the conduct that is unlawful under § 36-96.5 of the Virginia Fair Housing Law.

~~B. It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of that person having exercised or enjoyed, or on account of that person having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by the Virginia Fair Housing Law and these regulations.~~

~~C. B. Conduct made unlawful under this section includes, but is not limited to, the following:~~

1. Coercing a person, either orally, in writing, or by other means, to deny or limit the benefits provided that person in connection with the sale or rental of a dwelling or in connection with a residential real estate-related transaction because of race, color, religion, sex, handicap, familial status, elderliness, or national origin.

~~2. Threatening, intimidating or interfering with persons in their enjoyment of a dwelling because of the race, color, religion, sex, handicap, familial status, elderliness, or~~

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~~national origin of such persons, or of visitors or associates of such persons.~~

~~3- 2. Threatening an employee or agent with dismissal or an adverse employment action, or taking such adverse employment action, for any effort to assist a person seeking access to the sale or rental of a dwelling or seeking access to any residential real estate-related transaction, because of the race, color, religion, sex, handicap, familial status, elderliness, or national origin of that person or of any person associated with that person.~~

~~4- 3. Intimidating or threatening any person because that person is engaging in activities designed to make other persons aware of, or encouraging such other persons to exercise, rights granted or protected by this part.~~

~~5- 4. Retaliating against any person because that person has made a complaint, testified, assisted, or participated in any manner in a proceeding under the fair housing law. These regulations also describe the matters the board will review in evaluating compliance with the fair housing law in connection with investigations of complaints alleging discriminatory housing practices involving advertising.~~

18 VAC 135-50-230. Scope. (Repealed.)

~~These guidelines describe the matters the board will review in evaluating compliance with the fair housing law in connection with the investigation of complaints alleging discriminatory housing practices involving advertising. These criteria will be considered in making determinations as to whether there is reasonable cause to believe that a discriminatory housing practice has occurred or is about to occur.~~

18 VAC 135-50-240. Advertising media. (Repealed.)

~~This section provides criteria for use by advertising media in determining whether to accept and publish advertising regarding sales or rental transactions. These criteria will be considered in making determinations as to whether there is reasonable cause to believe that a discriminatory housing practice has occurred or is about to occur.~~

18 VAC 135-50-250. Persons placing advertisements. (Repealed.)

~~A failure by persons placing advertisements to use the criteria contained in this part, when found in connection with the investigation of a complaint alleging the making or use of discriminatory advertisements, will be considered in making a determination of reasonable cause to believe that a discriminatory housing practice has occurred or is about to occur.~~

18 VAC 135-50-270. Use of words, phrases, symbols and visual aids.

The following words, phrases, symbols, and forms typify those most often used in residential real estate advertising to convey either overt or tacit discriminatory preferences or limitations. ~~These examples are not exhaustive.~~ In considering a complaint under the fair housing law, the board will ~~normally~~ consider the use of these and comparable words, phrases, symbols, and forms to ~~indicate~~ determine a possible violation of the law and to establish a need for further proceedings on

the complaint, if it is apparent from the context of the usage that discrimination within the meaning of the law is likely to result.

1. Words descriptive of dwelling, landlord and tenants. White private home, Colored home, Jewish home, Hispanic residence, adult building.

2. Words indicative of race, color, religion, sex, handicap, familial status, elderliness or national origin.

a. Race: Negro, Black, Caucasian, Oriental, American Indian.

b. Color: White, Black, Colored.

c. Religion: Protestant, Christian, Catholic, Jewish.

d. National origin: Mexican American, Puerto Rican, Philippine, Polish, Hungarian, Irish, Italian, Chicano, African, Hispanic, Chinese, Indian, Latino.

e. Sex: The exclusive use of words in advertisements, including those involving the rental of separate units in a single or multi-family dwelling, stating or intending to imply that the housing being advertised is available to persons of only one sex and not the other, except where the sharing of living areas is involved. Nothing in this section restricts advertisements of dwellings used exclusively for dormitory facilities by educational institutions.

f. Handicap: crippled, blind, deaf, mentally ill, retarded, impaired, handicapped, physically fit. Nothing in this section restricts the inclusion of information about the availability of accessible housing in advertising of dwellings.

g. Familial status: adults, children, singles, mature persons. Nothing in this section restricts advertisements of dwellings which are intended and operated for occupancy by older persons and which constitute "housing for older persons" as defined in 18 VAC 135-50-210 of this chapter.

h. Elderliness: elderly, senior citizens, young, old, active, available to those between 25 and 55, ~~the gray wave.~~

3. Catch words. Words and phrases used in a discriminatory context should be avoided, e.g., "restricted," "exclusive," "private," "integrated," "traditional," "board approval," "membership approval."

4. Symbols or logotypes. Symbols or logotypes which imply or suggest race, color, religion, sex, handicap, familial status, elderliness or national origin.

5. Colloquialisms. Words or phrases used regionally or locally which imply or suggest race, color, religion, sex, handicap, familial status, elderliness or national origin.

6. Directions to real estate for sale or rent (use of maps or written instructions). Directions can imply a discriminatory preference, limitation, or exclusion. For example, references to real estate location made in terms of racial or national origin significant landmarks, such as an existing black development (signal to blacks) or an existing development known for its exclusion of minorities (signal to whites).

Specific directions which make reference to a racial or national origin significant area may indicate a preference. References to a synagogue, congregation or parish may also indicate a religious preference.

7. Area (location) description. Names of facilities which cater to a particular racial, national origin or religious group, such as country club or private school designations, or names of facilities which are used exclusively by one sex may indicate a preference.

18 VAC 135-50-290. Fair housing policy and practices.

In the investigation of complaints, the board will consider the implementation of fair housing policies and practices provided in this section as evidence of compliance with the prohibitions against discrimination in advertising under the fair housing law.

1. Use of equal housing opportunity logotype, statement, or slogan. All advertising of residential real estate for sale, rent, or financing should contain an equal housing opportunity logotype, statement, or slogan as a means of educating the homeseeking public that the property is available to all persons regardless of race, color, religion, sex, handicap, familial status, elderliness, or national origin. The choice of logotype, statement, or slogan will depend on the type of media used (visual or auditory) and, in space advertising, on the size of the advertisement. See Appendix I to ~~Part 109~~, 24 CFR *Part 109*, Ch. 1, (4/1/89 4/1/00 edition) for suggested use of the logotype, statement, or slogan and size of logotype and copies of the suggested equal housing opportunity logotype, statement and slogan.

2. Use of human models. Human models in photographs, drawings, or other graphic techniques may not be used to indicate exclusiveness because of race, color, religion, sex, handicap, familial status, elderliness, or national origin. If models are used in display advertising campaigns, the models should be clearly definable as reasonably representing majority and minority groups in the metropolitan area, both sexes and, when appropriate, families with children. Models, if used, should portray persons in an equal social setting and indicate to the general public that the housing is open to all without regard to race, color, religion, sex, handicap, familial status, elderliness, or national origin, and is not for the exclusive use of one such group. Human models include any depiction of a human being, paid or unpaid, resident or nonresident.

3. ~~Coverage of local laws. Where the equal housing opportunity statement is used, the advertisement may also include a statement regarding the coverage of any local fair housing or human rights ordinance prohibiting discrimination in the sale, rental or financing of dwellings.~~

4. Notification of fair housing policy. The following groups should be notified of the firm's fair housing policy:

a. ~~Employees. All publishers of advertisements, advertising agencies, and firms engaged in the sale, rental, or financing of real estate should provide a printed copy of their nondiscrimination policy to each employee and officer.~~

b. ~~Clients. All publishers of advertisements and advertising agencies should post a copy of their nondiscrimination policy in a conspicuous location wherever persons place advertising and should have copies available for all firms and persons using their advertising services.~~

5. ~~Publishers' notice. All publishers should publish at the beginning of the real estate advertising section the notice described in 18 VAC 135-50-110.~~

18 VAC 135-50-300. Submission of information to file a complaint.

A. The administrator or his designee will receive *complaint* information concerning alleged discriminatory housing practices from any person. ~~Where the information constitutes a complaint within the meaning of the fair housing law and these regulations and is furnished by an aggrieved person, a complaint will be considered filed in accordance with 18 VAC 135-50-350. Where additional information is required for the purpose of perfecting a complaint under the law, the administrator or his designee will advise what additional information is needed and will provide appropriate assistance in the filing of the complaint.~~

B. ~~The Complaint~~ information may also be made available to any appropriate federal, state or local agency having an interest in the matter. In making available such information, steps will be taken to protect the confidentiality of any informant or complainant where desired by the informant or complainant.

C. ~~The administrator or his designee may counsel with an aggrieved party about the facts and circumstances which constitute the alleged discriminatory housing practices. If the facts and circumstances do not constitute discriminatory housing practices, the administrator or his designee shall so advise the aggrieved party. If the facts and circumstances constitute alleged discriminatory housing practices, the administrator or his designee shall assist the aggrieved party in perfecting a complaint.~~

18 VAC 135-50-310. Who may file a complaint. (Repealed.)

~~Any aggrieved person or the administrator on behalf of the board may file a complaint no later than one year after an alleged discriminatory housing practice has occurred or terminated. The complaint may be filed with the assistance of an authorized representative of an aggrieved person, including any organization acting on behalf of an aggrieved person.~~

18 VAC 135-50-330. Filing a complaint. (Repealed.)

A. Aggrieved persons may file complaints in person with, or by mail, to the administrator or his designee on a form furnished by the board.

B. Aggrieved persons may provide information to be contained in a complaint by telephone to personnel in the fair housing office. Personnel in the fair housing office will reduce information provided by telephone to writing on the prescribed complaint form and send the form to the aggrieved person to be signed and affirmed in accordance with 18 VAC 135-50-340-A.

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18 VAC 135-50-340. Form and content of a complaint. (Repealed.)

~~A. Each complaint must be in writing and must be signed and affirmed by the aggrieved person filing the complaint or if the complaint is filed by the administrator on behalf of the board, it must be signed and affirmed by the administrator. The signature and affirmation may be made at any time during the investigation. The affirmation shall state "I declare under penalty of perjury that the foregoing is true and correct."~~

~~B. The administrator may require complaints to be made on prescribed forms. The complaint forms will be available through the Department of Professional and Occupational Regulation. Notwithstanding any requirement for use of a prescribed form, the Department of Professional and Occupational Regulation will accept any written statement which substantially sets forth the allegations of a discriminatory housing practice under the fair housing law (including any such statement filed with a substantially equivalent local agency) as a fair housing law complaint. Personnel in the fair housing office will provide appropriate assistance in filling out forms and filing a complaint.~~

~~C. Each complaint must contain substantially the following information:~~

- ~~1. The name and address of the aggrieved person.~~
- ~~2. The name and address of the respondent.~~
- ~~3. A description and address of the dwelling which is involved, if appropriate.~~
- ~~4. A concise statement of the facts, including pertinent dates, constituting the alleged discriminatory housing practice.~~

18 VAC 135-50-350. Date of filing of a complaint.

~~A. Except as provided in subsection B of this section, a complaint is filed when it is received by the board or dual filed with the federal government in a form that reasonably meets the standards of 18 VAC 135-50-340.~~

~~B. The administrator may determine that a complaint is filed for the purposes of the one-year period for filing of complaints upon submission of written information (including information provided by telephone and reduced to writing by an employee of the board) identifying the parties and describing generally the alleged discriminatory housing practice.~~

~~C. Where a complaint alleges a discriminatory housing practice that is continuing, as manifested in a number of incidents of such conduct, the complaint will be timely if filed within one year of the last alleged occurrence of that practice.~~

18 VAC 135-50-360. Amendment of complaint. (Repealed.)

~~Complaints may be reasonably and fairly amended at any time. Such amendments may include, but are not limited to: (i) amendments to cure technical defects or omissions, including failure to sign or affirm a complaint, (ii) to clarify or amplify the allegations in a complaint, or (iii) to join additional or substitute respondents. Except for the purposes of notifying respondents, under 18 VAC 135-50-380, amended complaints~~

~~will be considered as having been made as of the original filing date.~~

18 VAC 135-50-370. Service of notice on aggrieved person. (Repealed.)

~~Upon the filing of a complaint, the administrator or his designee will notify, by certified mail or personal service, each aggrieved person on whose behalf the complaint was filed. The notice will:~~

- ~~1. Acknowledge the filing of the complaint and state the date that the complaint was accepted for filing.~~
- ~~2. Include a copy of the complaint.~~
- ~~3. Advise the aggrieved person of the time limits applicable to complaint processing and of the procedural rights and obligations of the aggrieved person under the Virginia Fair Housing Law and these regulations.~~
- ~~4. Advise the aggrieved person of his right to commence a civil action under the fair housing law, in state circuit court, not later than two years after the occurrence or termination of the alleged discriminatory housing practice. The notice will state that the computation of this two-year period excludes any time during which an action arising from a breach of a conciliation agreement under the law is pending.~~
- ~~5. Advise the aggrieved person that retaliation against any person because he made a complaint or testified, assisted, or participated in an investigation or conciliation under these regulations is a discriminatory housing practice that is prohibited under the law and these regulations.~~

18 VAC 135-50-380. Respondent to be notified of complaint. (Repealed.)

~~A. Within 10 days of the filing of a complaint under 18 VAC 135-50-350 or the filing of an amended complaint under 18 VAC 135-50-360, the administrator or his designee will serve a notice on each respondent by certified mail or by personal service. A person who is not named as a respondent in a complaint, but who is identified in the course of the investigation under Part V of these regulations as a person who is alleged to be engaged, to have engaged, or to be about to engage in the discriminatory housing practice upon which the complaint is based may be joined as an additional or substitute respondent by service of a notice on the person under this section within 10 days of the identification.~~

~~B. 1. The notice will identify the alleged discriminatory housing practice upon which the complaint is based, and include a copy of the complaint and copies of any supporting documentation referenced in the complaint which are received with the complaint.~~

~~2. The notice will state the date that the complaint was accepted for filing.~~

~~3. The notice will advise the respondent of the time limits applicable to complaint processing under these regulations and of the procedural rights and obligations of the respondent under the law and these regulations, including the opportunity to submit an answer to the complaint within 40 days of the receipt of the notice. The administrator, upon~~

~~request, has the discretion to extend this time period for a reasonable time.~~

~~4. The notice will advise the respondent of the aggrieved person's right to commence a civil action under the law, in a state circuit court, no later than 180 days after the conclusion of the administrative process with respect to a complaint or charge, or, not later than two years after the occurrence or termination of the alleged discriminatory housing practice, whichever is longer.~~

~~5. If the person is not named in the complaint, but is being joined as an additional or substitute respondent, the notice will explain the basis for the administrator's belief that the joined person is properly joined as a respondent.~~

~~6. The notice will advise the respondent that retaliation against any person because he made a complaint or testified, assisted, or participated in an investigation or conciliation under this part is a discriminatory housing practice that is prohibited under the law and these regulations.~~

~~7. The notice may invite the respondent to enter into a conciliation agreement for the purpose of resolving the complaint.~~

~~8. The notice may include an initial request for information and documentation concerning the facts and circumstances surrounding the alleged discriminatory housing practice set forth in the complaint.~~

18 VAC 135-50-390. Respondent may file response.

~~A. The respondent may file an answer not later than 10 days after receipt of the notice described in 18 VAC 135-50-380. The respondent may assert any defense that might be available to a defendant in a court of law. The answer must be signed and affirmed in writing under oath or affirmation by the respondent. The affirmation must state: "I declare under penalty of perjury that the foregoing is true and correct."~~

~~B. An answer may be reasonably and fairly amended at any time.~~

18 VAC 135-50-400. Investigations.

~~A. Upon the filing of a complaint, the administrator will initiate an investigation shall investigate the allegations. The purposes of an investigation are:~~

- ~~1. To obtain information concerning the events or transactions that relate to the alleged discriminatory housing practice identified in the complaint.~~
- ~~2. To document policies or practices of the respondent involved in the alleged discriminatory housing practice raised in the complaint.~~
- ~~3. To develop factual data necessary for the administrator on behalf of the board to make a determination whether reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, and to take other actions provided under this part.~~

~~B. Based on the authority delegated to the fair housing administrator by the Real Estate Board, the administrator may initiate an investigation of investigate housing practices to~~

~~determine whether a complaint should be filed. Such investigations will be conducted in accordance with the procedures described under this section an initiation may include using testers and other established practices or procedures.~~

18 VAC 135-50-420. Conduct of investigation.

~~A. In conducting investigations under these regulations, the voluntary cooperation of all persons will be sought to obtain access to premises, records, documents, individuals, and other possible sources of information; to examine, record, and copy necessary materials; and to take and record testimony or statements of persons reasonably necessary for the furtherance of the investigation.~~

~~B. The administrator and the respondent may conduct discovery in aid of the investigation by the same methods and to the same extent that parties may conduct discovery in a court of law in an administrative proceeding under the Virginia Fair Housing Law, except that the administrator or his designee, on behalf of the board, shall have the power to issue subpoenas described under the law, in support of the investigation.~~

18 VAC 135-50-440. Completion of investigation.

~~A. The investigation will remain open until a determination, under these regulations and the Virginia Fair Housing Law, regarding reasonable cause is made or a conciliation agreement is executed and approved.~~

~~B. Unless it is impracticable to do so, the administrator will complete the investigation of the alleged discriminatory housing practice within 100 days of the filing of the complaint. In no event shall the investigation extend beyond one year from the receipt of the complaint by the board.~~

~~C. If the administrator is unable to complete the investigation within the 100-day period or dispose of all administrative proceedings related to the investigation within one year after the date the complaint is filed, the administrator will notify the aggrieved person and the respondent, by certified mail or personal service, of the reasons for the delay.~~

18 VAC 135-50-450. Final investigative report.

~~A. At the end of each investigation under this article, the administrator or his designee will prepare a final investigative report. The investigative report will contain: 4. the names and dates of contacts with witnesses, except that the report will not disclose the names of witnesses who request anonymity. The board, however, may be required to disclose the names of such witnesses in the course of a civil action under the fair housing law;~~

~~2. A summary and the dates of correspondence and other contacts with the aggrieved person and the respondent;~~

~~3. A summary description of other pertinent records;~~

~~4. A summary of witness statements; and~~

~~5. Answers to interrogatories.~~

~~B. A final investigative report may be amended at any time, if additional evidence is discovered.~~

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~~C. Notwithstanding the prohibitions and requirements with respect to disclosure of information contained in 18 VAC 135-50-510, the administrator will make information derived from an investigation, including the final investigative report, available to the aggrieved person and the respondent. Following the completion of an investigation, the administrator shall notify the aggrieved person and the respondent that the final investigative report is complete and will be provided upon request.~~

Article 4. Conciliation Procedures.

18 VAC 135-50-460. Conciliation process. *(Repealed.)*

~~A. During the period beginning with the filing of the complaint and ending with the filing of a charge or the dismissal of the complaint, the administrator or his designee will, to the extent feasible, attempt to conciliate the complaint.~~

~~B. In conciliating a complaint, the administrator will attempt to achieve a just resolution of the complaint and to obtain assurances that the respondent will satisfactorily remedy any violations of the rights of the aggrieved person, and take such action as will assure the elimination of discriminatory housing practices, or the prevention of their occurrence, in the future.~~

18 VAC 135-50-470. Conciliation agreement.

A. The terms of a settlement of a complaint will be reduced to a written conciliation agreement. The conciliation agreement shall seek to protect the interests of the aggrieved person, other persons similarly situated, and the public interest. The types of relief that may be sought for the aggrieved person are described in 18 VAC 135-50-480 of this chapter and the Virginia Fair Housing Law. The provisions that may be sought for the vindication of the public interest are described in 18 VAC 135-50-490.

B. The agreement must be executed by the respondent and the complainant. The agreement is subject to the approval of the administrator, who will indicate approval by signing the agreement *board*. The administrator will approve an agreement and, if the administrator is the complainant, will execute the agreement, only if:

- ~~1. The complainant and the respondent agree to the relief accorded the aggrieved person;~~
- ~~2. The provisions of the agreement will adequately vindicate the public interest; and~~
- ~~3. If the administrator is the complainant, all aggrieved persons named in the complaint are satisfied with the relief provided to protect their interests.~~

~~C. The board may issue a charge under 18 VAC 135-50-530 if the aggrieved person and the respondent have executed a conciliation agreement that has not been approved by the administrator.~~

18 VAC 135-50-480. Relief sought for aggrieved persons during conciliation.

A. The following types of relief may be sought for aggrieved persons in conciliation:

1. Monetary relief in the form of compensatory and punitive damages and attorney fees;
2. Other equitable relief including, ~~but not limited to,~~ access to the dwelling at issue, or to a comparable dwelling, the provision of services or facilities in connection with a dwelling, or other specific relief; or
3. Injunctive relief appropriate to the elimination of discriminatory housing practices affecting the aggrieved person or other persons.

B. The conciliation agreement may provide for binding arbitration or other methods of resolving a dispute arising from the complaint. Arbitration may award appropriate relief as described in subsection A of this section. The aggrieved person and the respondent may, in the conciliation agreement, limit the types of relief that may be awarded under binding arbitration or other methods of dispute resolution.

18 VAC 135-50-510. Prohibition and requirements for Disclosure of information obtained during conciliation.

~~A. Except as provided in subsection B of this section and 18 VAC 135-50-450 C, nothing that is said or done in the course of conciliation under this article may be made public or used as evidence in subsequent civil actions under the Virginia Fair Housing Law or this chapter without the written consent of the persons concerned.~~

~~B. Conciliation agreements shall be made public, unless the aggrieved person and respondent request nondisclosure and the administrator *board* determines that disclosure is not required to further the purposes of the fair housing law. Notwithstanding a determination that disclosure of a conciliation agreement is not required, the administrator *board* may publish tabulated descriptions of the results of all conciliation efforts.~~

Article 5. ~~Reasonable Cause Determination and Issuance of a Charge.~~

18 VAC 135-50-530. Reasonable cause determination. *(Repealed.)*

~~A. If a conciliation agreement has not been executed by the complainant and the respondent, the administrator, on behalf of the board, within the time limits set forth in 18 VAC 135-50-560, shall determine whether, based on the totality of the factual circumstance known at the time of the decision, reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur. The reasonable cause determination will be based solely on the facts concerning the alleged discriminatory housing practice, provided by complainant and respondent and otherwise disclosed during the investigation. In making the reasonable cause determination, the board shall consider whether the facts concerning the alleged discriminatory housing practice are sufficient to warrant the initiation of a civil action in the appropriate state court.~~

~~B. In all cases not involving the legality of local zoning or land use laws or ordinances:~~

- ~~1. If the board determines that reasonable cause exists, the board will issue a charge under § 36-96.14 of the fair~~

~~housing law and these regulations on behalf of the aggrieved person, and shall notify the aggrieved person and the respondent of this determination by certified mail or personal service.~~

~~2. If a no reasonable cause determination is made, the board shall: Issue a short and plain written statement of the facts upon which the no reasonable cause determination was based; dismiss the complaint; notify the aggrieved person and the respondent of the dismissal (including the written statement of facts) in writing within 30 days of such determination by certified mail or personal service; and make public disclosure of the dismissal. Public disclosure of the dismissal shall be by issuance of a press release, except that the respondent may request that no release be made. Notwithstanding a respondent's request that no press release be issued, the fact of the dismissal, including the names of the parties, shall be public information available on request.~~

18 VAC 135-50-540. Local zoning and land use. (Repealed.)

~~If the board determines that the matter involves the legality of local zoning or land use laws or ordinances, in lieu of making a determination regarding reasonable cause, the investigative materials shall be referred to the Attorney General for appropriate action under the fair housing law, and shall notify the aggrieved person and the respondent of this action by certified mail or personal service.~~

18 VAC 135-50-560. Time to make reasonable cause determination. (Repealed.)

~~The board shall make a reasonable cause determination within 100 days after filing of the complaint, unless it is impracticable to do so. If the board is unable to make the determination within the 100-day period, the administrator will notify the aggrieved person and the respondent, by certified mail or personal service, of the reasons for the delay.~~

18 VAC 135-50-570. Time for administrative disposition. (Repealed.)

~~The board is required to make final administrative disposition of the complaint within one year of the date of receipt of the complaint, unless it is impracticable to do so. If the agency is unable to do so, it shall notify the complainant and respondent, in writing, of the reasons for not doing so.~~

18 VAC 135-50-580. Issuance of a charge. (Repealed.)

~~A. A charge:~~

- ~~1. Shall consist of a short and plain written statement of the facts upon which the administrator has found reasonable cause to believe that a discriminatory housing practice has occurred or is about to occur;~~
- ~~2. Shall be based on the final investigative report; and~~
- ~~3. Need not be limited to facts or grounds that are alleged in the complaint filed under this part and the Virginia Fair Housing Law. If the charge is based on grounds that are alleged in the complaint, a charge will not be issued with regard to the grounds unless the record of the investigation~~

~~demonstrates that the respondent has been given notice and an opportunity to respond to the allegation.~~

~~B. Not later than the 20th day after the board issues a charge, a copy of the charge shall be sent to each respondent and each aggrieved person identified in the charge by certified mail or personal service.~~

18 VAC 135-50-590. Referral of a charge. (Repealed.)

~~Once a charge has been issued, the board shall immediately notify and authorize the Attorney General to commence and maintain a civil action seeking relief under § 36-96.16 of the fair housing law on behalf of the aggrieved person in an appropriate circuit court. Such notification and authorization shall include transmission of the file in the case, including a copy of the final investigative report and the charge, to the Attorney General.~~

VA.R. Doc. No. R01-55; Filed July 8, 2002, 11:24 a.m.



FINAL REGULATIONS

For information concerning Final Regulations, see Information Page.

Symbol Key

Roman type indicates existing text of regulations. *Italic type* indicates new text. Language which has been stricken indicates text to be deleted. [Bracketed language] indicates a change from the proposed text of the regulation.

TITLE 3. ALCOHOLIC BEVERAGES

ALCOHOLIC BEVERAGE CONTROL BOARD

Title of Regulation: **3 VAC 5-20. Advertising (amending 3 VAC 5-20-10 and 3 VAC 5-20-60).**

Statutory Authority: §§ 4.1-111 and 4.1-320 of the Code of Virginia.

Effective Date: August 28, 2002.

Summary:

The amendment modifies current restrictions on the use of athletes or athletic teams in alcoholic beverage advertising, allowing wine or beer licensees to display point-of-sale advertising materials incorporating the use of professional athletes and athletic teams. The final regulation as adopted by the board has been amended to clarify that all persons granted a license to sell beer or wine at retail may use such advertising, not just those licensed to sell both products. An additional amendment increases the maximum wholesale value of novelty and specialty items bearing alcoholic beverage advertising, which may be given away by alcoholic beverage manufacturers, importers, bottlers, brokers, wholesalers, or their representatives, from \$5 to \$10.

Summary of Public Comments and Agency's Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

Agency Contact: Sara M. Gilliam, Assistant Secretary, Alcoholic Beverage Control Board, 2901 Hermitage Road, P.O. Box 27491, Richmond, Virginia 23261, telephone (804) 213-4440, FAX (804) 213-4411 or (804) 213-4687/TTY, e-mail smgillm@abc.state.va.us.

3 VAC 5-20-10. Advertising; generally; cooperative advertising; federal laws; cider; restrictions.

A. All alcoholic beverage advertising is permitted in this Commonwealth except that which is prohibited or otherwise limited or restricted by regulation of the board and such advertising shall not be blatant or obtrusive. Any editorial or other reading matter in any periodical, publication or newspaper for the publication of which no money or other valuable consideration is paid or promised, directly or indirectly, by or for the benefits of any permittee or licensee does not constitute advertising.

B. There shall be no cooperative advertising as between a producer, manufacturer, bottler, importer or wholesaler and a retailer of alcoholic beverages, except as may be authorized by regulation pursuant to § 4.1-216 of the Code of Virginia. The term "cooperative advertising" shall mean the payment or

credit, directly or indirectly, by any manufacturer, bottler, importer or wholesaler whether licensed in this Commonwealth or not to a retailer for all or any portion of advertising done by the retailer.

C. Advertising of cider, as defined in § 4.1-213 of the Code of Virginia, shall conform with the requirements for advertising beer.

D. The board may issue a permit authorizing a variance from any of its advertising regulations for good cause shown.

E. No advertising shall contain any statement, symbol, depiction or reference that:

1. Would tend to induce minors to drink, or would tend to induce persons to consume to excess;
2. Is lewd, obscene or indecent or is suggestive of any illegal activity;
3. Incorporates the use of any present or former athlete or athletic team or implies that the product enhances athletic prowess; *except that, persons granted a [~~wine and beer~~] license [to sell wine or beer] may display within their licensed premises point-of-sale advertising materials that incorporate the use of any professional athlete or athletic team, provided that such advertising materials: (i) otherwise comply with the applicable regulations of the Federal Bureau of Alcohol, Tobacco and Firearms and (ii) do not depict any athlete consuming or about to consume alcohol prior to or while engaged in an athletic activity, do not depict an athlete consuming alcohol while the athlete is operating or about to operate a motor vehicle or other machinery, and do not imply that the alcoholic beverage so advertised enhances athletic prowess;*
4. Is false or misleading in any material respect, or implies that the product has a curative or therapeutic effect, or is disparaging of a competitor's product;
5. Implies or indicates, directly or indirectly, that the product is government endorsed by the use of flags, seals or other insignia or otherwise;
6. Makes any reference to the intoxicating effect of any alcoholic beverages;
7. Constitutes or contains a contest or sweepstakes where a purchase is required for participation; or
8. Constitutes or contains an offer to pay or provide anything of value conditioned on the purchase of alcoholic beverages, except for refund coupons and combination packaging for wine. Any such combination packaging shall be limited to packaging provided by the manufacturer that is designed to be delivered intact to the consumer.

F. The board shall not regulate advertising of nonalcoholic beer or nonalcoholic wine so long as (i) a reasonable person by common observation would conclude that the advertising

clearly does not represent any advertisement for alcoholic beverages and (ii) the advertising prominently states that the product is nonalcoholic.

3 VAC 5-20-60. Advertising; novelties and specialties.

Distribution of novelty and specialty items, including wearing apparel, bearing alcoholic beverage advertising, shall be subject to the following limitations and conditions:

1. Items not in excess of ~~\$5.00~~ \$10 in wholesale value may be given away;
2. Manufacturers, importers, bottlers, brokers, wholesalers or their representatives may give items not in excess of ~~\$5.00~~ \$10 in wholesale value, limited to one item per retailer, and one item per employee, per visit, which may not be displayed on the licensed premises. Neither manufacturers, importers, bottlers, brokers, wholesalers or their representatives may give such items to patrons on the premises of retail licensees; *however, such items bearing moderation and responsible drinking messages may be displayed by the licensee and his employees on the licensed premises and given to patrons on such premises as long as any references to any alcoholic beverage manufacturer or its brands are subordinate in type size and quantity of text to such moderation message;*
3. Items in excess of ~~\$5.00~~ \$10 in wholesale value may be donated by distilleries, wineries and breweries only to participants or entrants in connection with the sponsorship of conservation and environmental programs, professional, semi-professional or amateur athletic and sporting events subject to the limitations of 3 VAC 5-20-100, and for events of a charitable or cultural nature;
4. Items may be sold by mail upon request or over-the-counter at retail establishments customarily engaged in the sale of novelties and specialties, provided they are sold at the reasonable open market price in the localities where sold;
5. Wearing apparel shall be in adult sizes;
6. Point-of-sale order blanks, relating to novelty and specialty items, may be provided by beer and wine wholesalers to retail licensees for use on their premises, if done for all retail licensees equally and after obtaining the consent, which may be a continuing consent, of each retailer or his representative. Wholesale licensees in the Commonwealth may not put order blanks on the package. Wholesalers may not be involved in the redemption process.

VA.R. Doc. No. R01-199; Filed July 10, 2002, 11:43 a.m.

Title of Regulation: **3 VAC 5-30. Tied-House (amending 3 VAC 5-30-60).**

Statutory Authority: §§ 4.1-103 and 4.1-111 of the Code of Virginia.

Effective Date: August 28, 2002.

Summary:

The amendment allows alcoholic beverage manufacturers, bottlers, and wholesalers to provide advertising materials to retail licensees that have been customized for the individual retailer, with some restrictions.

Summary of Public Comments and Agency's Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

Agency Contact: Sara M. Gilliam, Assistant Secretary, Alcoholic Beverage Control Board, 2901 Hermitage Road, P.O. Box 27491, Richmond, Virginia 23261, telephone (804) 213-4440, FAX (804) 213-4411 or (804) 213-4687/TTY, e-mail smgillm@abc.state.va.us.

3 VAC 5-30-60. Inducements to retailers; beer and wine tapping equipment; bottle or can openers; spirits back-bar pedestals; banquet licensees; paper, cardboard or plastic advertising materials; clip-ons and table tents; sanctions and penalties.

A. Any manufacturer, bottler or wholesaler may sell, rent, lend, buy for or give to any retailer, without regard to the value thereof, the following:

1. Draft beer knobs, containing advertising matter which shall include the brand name and may further include only trademarks, housemarks and slogans and shall not include any illuminating devices or be otherwise adorned with mechanical devices which are not essential in the dispensing of draft beer; and
2. Tapping equipment, defined as all the parts of the mechanical system required for dispensing draft beer in a normal manner from the carbon dioxide tank through the beer faucet, excluding the following:
 - a. The carbonic acid gas in containers, except that such gas may be sold only at the reasonable open market price in the locality where sold;
 - b. Gas pressure gauges (may be sold at cost);
 - c. Draft arms or standards;
 - d. Draft boxes; and
 - e. Refrigeration equipment or components thereof.

Further, a manufacturer, bottler or wholesaler may sell, rent or lend to any retailer, for use only by a purchaser of draft beer in kegs or barrels from such retailer, whatever tapping equipment may be necessary for the purchaser to extract such draft beer from its container.

B. Any manufacturer, bottler or wholesaler may sell to any retailer and install in the retailer's establishment tapping accessories such as standards, faucets, rods, vents, taps, tap standards, hoses, cold plates, washers, couplings, gas gauges, vent tongues, shanks, and check valves, if the tapping accessories are sold at a price not less than the cost of the industry member who initially purchased them, and if the price is collected within 30 days of the date of sale.

Wine tapping equipment shall not include the following:

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1. Draft wine knobs, which may be given to a retailer;

2. Carbonic acid gas, nitrogen gas, or compressed air in containers, except that such gases may be sold in accordance with the reasonable open market prices in the locality where sold and if the price is collected within 30 days of the date of the sales; or

3. Mechanical refrigeration equipment.

C. Any beer tapping equipment may be converted for wine tapping by the beer wholesaler who originally placed the equipment on the premises of the retail licensee, provided that such beer wholesaler is also a wine wholesaler licensee. Moreover, at the time such equipment is converted for wine tapping, it shall be sold, or have previously been sold, to the retail licensee at a price not less than the initial purchase price paid by such wholesaler.

D. Any manufacturer, bottler or wholesaler of wine or beer may sell or give to any retailer, bottle or can openers upon which advertising matter regarding alcoholic beverages may appear, provided the wholesale value of any such openers given to a retailer by any individual manufacturer, bottler or wholesaler does not exceed \$5.00. Openers in excess of \$5.00 in wholesale value may be sold, provided the reasonable open market price is charged therefor.

E. Any manufacturer of spirits may sell, lend, buy for or give to any retail licensee, without regard to the value thereof, back-bar pedestals to be used on the retail premises and upon which advertising matter regarding spirits may appear.

F. Manufacturers or wholesalers of wine or beer may sell at the reasonable wholesale price to banquet licensees paper or plastic cups upon which advertising matter regarding wine or beer may appear.

G. Manufacturers, bottlers or wholesalers of alcoholic beverages may not provide point-of-sale advertising for any alcoholic beverage or any nonalcoholic beer or nonalcoholic wine to retail licensees except in accordance with 3 VAC 5-20-20. Manufacturers, bottlers and wholesalers may [~~not~~] provide advertising materials to any retail licensee that have been customized for that retail licensee ~~or which are not otherwise generally provided that such advertising materials must:~~

1. *Comply with all other applicable regulations of the board;*
2. *Be for interior use only;*
3. *Contain references to the alcoholic beverage products or brands offered for sale by the manufacturer, bottler, or wholesaler providing such materials and to no other products; and*
4. *Be made available to all retail licensees.*

H. Any manufacturer, bottler or wholesaler of wine, beer or spirits may sell, lend, buy for or give to any retail licensee clip-ons and table tents containing the listing of not more than four wines or four beers. There is no limitation on the number of spirits brands which may be listed on clip-ons and table tents.

I. Any manufacturer, bottler or wholesaler of alcoholic beverages may clean and service, either free or for compensation, coils and other like equipment used in dispensing wine and beer, and may sell solutions or compounds for cleaning wine and beer glasses, provided the reasonable open market price is charged.

J. Any manufacturer, bottler or wholesaler of alcoholic beverages licensed in this Commonwealth may sell ice to retail licensees provided the reasonable open market price is charged.

K. Any licensee of the board, including any manufacturer, bottler, importer, broker as defined in § 4.1-216 A of the Code of Virginia, wholesaler or retailer who violates, attempts to violate, solicits any person to violate or consents to any violation of this section shall be subject to the sanctions and penalties as provided in § 4.1-328 of the Code of Virginia.

VA.R. Doc. No. R01-200; Filed July 10, 2002, 11:43 a.m.

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Title of Regulation: **3 VAC 5-50. Retail Operations (amending 3 VAC 5-50-170).**

Statutory Authority: §§ 4.1-103 and 4.1-111 of the Code of Virginia.

Effective Date: August 28, 2002.

Summary:

The amendment reduces the advance notice required of events to be catered under a caterer's license from two days to 24 hours.

Summary of Public Comments and Agency's Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

Agency Contact: Sara M. Gilliam, Assistant Secretary, Alcoholic Beverage Control Board, 2901 Hermitage Road, P.O. Box 27491, Richmond, Virginia 23261, telephone (804) 213-4440, FAX (804) 213-4411 or (804) 213-4687/TTY, e-mail smgillm@abc.state.va.us.

<p><u>REGISTRAR'S NOTICE:</u> The proposed regulation was adopted as published in 18:10 VA.R. 1285-1286 January 28, 2002, without change. Therefore, pursuant to § 2.2-4031 A of the Code of Virginia, the text of the final regulation is not set out.</p>

VA.R. Doc. No. R01-214; Filed July 10, 2002, 11:42 a.m.

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Title of Regulation: **3 VAC 5-60. Manufacturers and Wholesalers Operations (amending 3 VAC 5-60-80).**

Statutory Authority: §§ 4.1-103 and 4.1-111 of the Code of Virginia.

Effective Date: August 28, 2002.

Summary:

The amendments increase from \$5.00 to \$10 the maximum wholesale value of novelty and specialty items bearing spirits advertising that may be given away, and allow permittees to provide routine business to mixed beverage licensees subject to the same conditions and limitations that apply to wholesalers and manufacturers.

Summary of Public Comments and Agency's Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

Agency Contact: Sara M. Gilliam, Assistant Secretary, Alcoholic Beverage Control Board, 2901 Hermitage Road, P.O. Box 27491, Richmond, Virginia 23261, telephone (804) 213-4440, FAX (804) 213-4411 or (804) 213-4687/TTY, e-mail smgillm@abc.state.va.us.

REGISTRAR'S NOTICE: The proposed regulation was adopted as published in 18:10 VA.R. 1286-1289 January 28, 2002, without change. Therefore, pursuant to § 2.2-4031 A of the Code of Virginia, the text of the final regulation is not set out.

VA.R. Doc. No. R01-215; Filed July 10, 2002, 11:41 a.m.

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Title of Regulation: **3 VAC 5-70. Other Provisions (amending 3 VAC 5-70-20 and 3 VAC 5-70-90).**

Statutory Authority: §§ 4.1-103, 4.1-111 and 4.1-213 of the Code of Virginia.

Effective Date: August 28, 2002.

Summary:

The amendment to 3 VAC 5-70-20 allows for the peddling of cider and the reporting of cider sales by wholesale wine licensees in the same manner as beer. These changes are intended to accommodate cider wholesalers who are primarily beer wholesalers, allowing them to sell and invoice cider products in the same manner as their beer products.

The amendment to 3 VAC 5-70-90 adds provisions requiring all banquet and special event licensees in charge of public events to report to the board the income and expenses associated with the event when the licensee engages another person to organize, conduct or operate the event on behalf of the licensee.

Summary of Public Comments and Agency's Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

Agency Contact: Sara M. Gilliam, Assistant Secretary, Alcoholic Beverage Control Board, 2901 Hermitage Road, P.O. Box 27491, Richmond, Virginia 23261, telephone (804) 213-4440, FAX (804) 213-4411 or (804) 213-4687/TTY, e-mail smgillm@abc.state.va.us.

REGISTRAR'S NOTICE: The proposed regulation was adopted as published in 18:10 VA.R. 1289-1294 January 28, 2002, without change. Therefore, pursuant to § 2.2-4031 A of the Code of Virginia, the text of the final regulation is not set out.

VA.R. Doc. Nos. R01-216 and R01-217; Filed July 10, 2002, 11:41 a.m.

TITLE 11. GAMING

VIRGINIA RACING COMMISSION

REGISTRAR'S NOTICE: The following regulations filed by the Virginia Racing Commission are exempt from the Administrative Process Act pursuant to subdivision A 20 of § 2.2-4002 of the Code of Virginia, which exempts the commission (i) when acting by and through its duly appointed stewards or in matters related to any specific race meeting or (ii) in promulgating technical rules regulating actual live horse racing at race meetings licensed by the commission.

Title of Regulation: **11 VAC 10-100. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering: Horses (amending 11 VAC 10-100-80, 11 VAC 10-100-100, 11 VAC 10-100-150, 11 VAC 10-100-170, and 11 VAC 10-100-190; adding 11 VAC 10-100-151 and 11 VAC 10-100-152; repealing 11 VAC 10-100-110 and 11 VAC 10-100-140).**

Statutory Authority: § 59.1-369 of the Code of Virginia.

Effective Date: July 1, 2002.

Summary:

The amendments (i) require that the Certificate of Veterinary Inspection be attached to the health certificate or other registration document; (ii) clarify that published workouts are required for Thoroughbreds, but not for steeplechase or other categories that may be specifically exempted by the commission; (iii) specifically limit the scope of the horses placed on the Stewards' List; (iv) specify the circumstances under which the commission veterinarian can place horses on the Veterinarian's List and the starter can place horses on the Starter's List, and the conditions under which they would be removed; (v) require the trainer to obtain the permission of the paddock judge instead of the steward to change the equipment on a racehorse; (vi) remove language concerning the use of nasal strips; and (vii) reflect that the commission veterinarian or his assistant veterinarians conduct the pre-race examinations and not a veterinarian employed by the licensee.

In addition, the sections regarding time trials and qualifying races are repealed and will be placed in regulations pertaining to Standardbred racing.

Agency Contact: William H. Anderson, Director of Policy and Planning, Virginia Racing Commission, 10700 Horsemen's Road, New Kent, VA 23124, telephone (804) 966-7404, FAX (804) 966-7418 or e-mail Anderson@vrc.state.va.us.

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REGISTRAR'S NOTICE: The proposed regulation was adopted as published in 18:21 VA.R. 2729-2731 July 1, 2002, without change, except for the incorporation of the erratum published in the General Notices/Errata section of this issue of the Virginia Register. Therefore, pursuant to § 2.2-4031 A of the Code of Virginia, the text of the final regulation is not set out.

VA.R. Doc. No. R02-192; Filed July 1, 2002, 9:06 a.m.

Title of Regulation: 11 VAC 10-110. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering: Entries (amending 11 VAC 10-110-10, 11 VAC 10-110-20, 11 VAC 10-110-40, 11 VAC 10-110-60, 11 VAC 10-110-80, 11 VAC 10-110-90, 11 VAC 10-110-150 and 11 VAC 10-110-180).

Statutory Authority: § 59.1-369 of the Code of Virginia.

Effective Date: July 1, 2002.

Summary:

The amendments (i) modify the definitions of "overnight race" and "stakes"; (ii) prohibit a horse from being entered in two different races on any given racing day; (iii) add an exception for steeplechase races in the limit of the number of starters to the number of stalls in the starting gate; (iv) replace the term "infield results board" with "totalizator system"; (v) permit the stewards to designate a representative during the draw for post positions; and (vi) prohibit a horse scratched or excused from a race from being entered again until three days after the race from which it was scratched.

Agency Contact: William H. Anderson, Director of Policy and Planning, Virginia Racing Commission, 10700 Horsemen's Road, New Kent, VA 23124, telephone (804) 966-7404, FAX (804) 966-7418 or e-mail Anderson@vrc.state.va.us.

REGISTRAR'S NOTICE: The proposed regulation was adopted as published in 18:21 VA.R. 2732-2734 July 1, 2002, without change. Therefore, pursuant to § 2.2-4031 A of the Code of Virginia, the text of the final regulation is not set out.

VA.R. Doc. No. R02-193; Filed July 1, 2002, 9:07 a.m.

Title of Regulation: 11 VAC 10-120. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering: Claiming Races (amending 11 VAC 10-120-20, 11 VAC 10-120-40, 11 VAC 10-120-50, 11 VAC 10-120-80 and 11 VAC 10-120-100; repealing 11 VAC 10-120-90).

Statutory Authority: § 59.1-369 of the Code of Virginia.

Effective Date: July 1, 2002.

Summary:

The amendments (i) reduce the period of validity for a claiming certificate from the end of the calendar year to the ending of the race meeting at which it was issued, (ii)

prohibit an owner or trainer from filing a claim on a horse in which he has an interest, (iii) clarify the requirements for a properly completed claim slip, (iv) provide that the stewards may designate a person to represent them during a draw on multiple claims, (v) eliminate the phrase "with its halter" because the successful claimant must supply the halter, (vi) prohibit racing officials and employees of the licensee from providing information prior to the running of the race, (vii) provide an exception to the restriction on a claimed horse for horses claimed in steeplechase races, (viii) in harness racing, allow a claimed horse to start for "any price" after being claimed, (ix) provide that all horses claimed in other jurisdictions and racing in Virginia will be subject to the restrictions in the jurisdiction in which they were claimed, (x) repeal a section on steeplechase races, and (xi) clarify that a claimed horse is to be turned over to the successful claimant.

Agency Contact: William H. Anderson, Director of Policy and Planning, Virginia Racing Commission, 10700 Horsemen's Road, New Kent, VA 23124, telephone (804) 966-7404, FAX (804) 966-7418 or e-mail Anderson@vrc.state.va.us.

REGISTRAR'S NOTICE: The proposed regulation was adopted as published in 18:21 VA.R. 2734-2736 July 1, 2002, without change. Therefore, pursuant to § 2.2-4031 A of the Code of Virginia, the text of the final regulation is not set out.

VA.R. Doc. No. R02-198; Filed July 1, 2002, 9:08 a.m.

Title of Regulation: 11 VAC 10-140. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering: Flat Racing (amending 11 VAC 10-140-10, 11 VAC 10-140-30, 11 VAC 10-140-40, 11 VAC 10-140-60, 11 VAC 10-140-130, 11 VAC 10-140-140, 11 VAC 10-140-170, 11 VAC 10-180-180, and 11 VAC 10-140-310).

Statutory Authority: § 59.1-369 of the Code of Virginia.

Effective Date: July 1, 2002.

Summary:

The amendments (i) bring the procedures regarding equipment included in the weight carried by the jockey during a race into conformity with procedures followed in the mid-Atlantic region, (ii) add a definition of "nonstarter," (iii) add "pony rider" to the list of personnel who may not touch a racehorse while it is in the paddock, (iv) provide that the use or discontinued use of a tongue tie no longer requires the permission of the stewards, (v) require the prominent display of post time on the closed-circuit television system, (vi) give discretion to the starter to lead horses into the starting gate by sections rather than in strict order by post position, (vii) give discretion to the stewards to order refunds in any pools on a horse that does not obtain a fair start, and (viii) clarify several provisions regarding jockeys.

Agency Contact: William H. Anderson, Director of Policy and Planning, Virginia Racing Commission, 10700 Horsemen's Road, New Kent, VA 23124, telephone (804) 966-7404, FAX (804) 966-7418 or e-mail Anderson@vrc.state.va.us.

REGISTRAR'S NOTICE: The proposed regulation was adopted as published in 18:21 VA.R. 2736-2738 July 1, 2002, without change. Therefore, pursuant to § 2.2-4031 A of the Code of Virginia, the text of the final regulation is not set out.

VA.R. Doc. No. R02-199; Filed July 1, 2002, 9:09 a.m.

Title of Regulation: 11 VAC 10-150. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering: Harness Racing (amending 11 VAC 10-150-130 and 11 VAC 10-150-140; adding 11 VAC 10-150-190 and 11 VAC 10-150-200).

Statutory Authority: § 59.1-369 of the Code of Virginia.

Effective Date: July 1, 2002.

Summary:

The amendments (i) eliminate the mandatory disciplinary action for kicking a horse, (ii) provide procedures for racing around pylons, such as at Oak Ridge in Nelson County, where there is no inner hub rail for harness racing, (iii) clarify the procedure for a driver to lodge an objection, and (iv) transfer the procedures for qualifying races and time trials for Standardbreds from 11 VAC 10-100.

Agency Contact: William H. Anderson, Director of Policy and Planning, Virginia Racing Commission, 10700 Horsemen's Road, New Kent, VA 23124, telephone (804) 966-7404, FAX (804) 966-7418 or e-mail Anderson@vrc.state.va.us.

REGISTRAR'S NOTICE: The proposed regulation was adopted as published in 18:21 VA.R. 2738-2739 July 1, 2002, without change, except for the incorporation of the erratum published in the General Notices/Errata section of this issue of the Virginia Register. Therefore, pursuant to § 2.2-4031 A of the Code of Virginia, the text of the final regulation is not set out.

VA.R. Doc. No. R02-196; Filed July 1, 2002, 9:10 a.m.

Title of Regulation: 11 VAC 10-160. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering: Steeplechase Racing (amending 11 VAC 10-160-10, 11 VAC 10-160-20, and 11 VAC 10-160-120 through 11 VAC 10-160-150; repealing 11 VAC 10-160-90).

Statutory Authority: § 59.1-369 of the Code of Virginia.

Effective Date: July 1, 2002.

Summary:

The amendments prohibit assistance at the start and substitute the preferred term "steeplechase" for "jump."

Agency Contact: William H. Anderson, Director of Policy and Planning, Virginia Racing Commission, 10700 Horsemen's Road, New Kent, VA 23124, telephone (804) 966-7404, FAX (804) 966-7418 or e-mail Anderson@vrc.state.va.us.

REGISTRAR'S NOTICE: The proposed regulation was adopted as published in 18:21 VA.R. 2739-2740 July 1, 2002, without change. Therefore, pursuant to § 2.2-4031 A of the Code of Virginia, the text of the final regulation is not set out.

VA.R. Doc. No. R02-197; Filed July 1, 2002, 9:10 a.m.

TITLE 12. HEALTH

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

REGISTRAR'S NOTICE: The Department of Medical Assistance Services is claiming an exclusion from the Administrative Process Act in accordance with § 2.2-4006 A 4 (a) of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law where no agency discretion is involved. The Department of Medical Assistance Services will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 12 VAC 30-40. Eligibility Conditions and Requirements (amending 12 VAC 30-40-280).

Statutory Authority: §§ 32.1-324 and 32.1-325 of the Code of Virginia.

Effective Date: September 1, 2002.

Summary:

The amendment expands Medicaid eligibility for children between the ages of six years through 18 years whose families have incomes up to 133% of the Federal Poverty Level.

Agency Contact: Patricia A. Sykes, Manager, Policy Division, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 786-7958, FAX (804) 786-1680 or e-mail psykes@dmas.state.va.us.

12 VAC 30-40-280. More liberal income disregards.

A. For children covered under §§ 1902(a)(10)(A)(i)(III) and 1905(n) of the Social Security Act, the Commonwealth of Virginia will disregard one dollar plus an amount equal to the difference between 100% of the AFDC payment standard for the same family size and 100% of the Federal Poverty Level for the same family size as updated annually in the Federal Register.

B. For ADC-related cases, both categorically and medically needy, any individual or family applying for or receiving assistance shall be granted an income exemption consistent with the Act (§§ 1902(a)(10)(A)(i)(III), (IV), (VI), (VII); §§ 1902(a)(10)(A)(ii)(VIII), (IX); § 1902(a)(10)(C)(i)(III)). Any interest earned on one interest-bearing savings or investment account per assistance unit not to exceed \$5,000, if the applicant, applicants, recipient or recipients designate that the

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account is reserved for purposes related to self-sufficiency, shall be exempt when determining eligibility for medical assistance for so long as the funds and interest remain on deposit in the account. For purposes of this section, "purposes related to self-sufficiency" shall include, but are not limited to, (i) paying for tuition, books, and incidental expenses at any elementary, secondary, or vocational school, or any college or university; (ii) for making down payment on a primary residence; or (iii) for establishment of a commercial operation that is owned by a member of the Medicaid assistance unit.

C. For the group described in §§ 1902(a)(10)(A)(i)(VII) and 1902(l)(1)(D), income in the amount of the difference between 100% and 133% of the Federal Poverty Level (as revised annually in the Federal Register) is disregarded.

VA.R. Doc. No. R02-234; Filed July 1, 2002; 4:20 p.m.

TITLE 24. TRANSPORTATION

COMMONWEALTH TRANSPORTATION BOARD

REGISTRAR'S NOTICE: The following regulation filed by the Department of Transportation is exempt from the Administrative Process Act in accordance with § 2.2-4002 B 11 of the Code of Virginia, which exempts regulations relating to traffic signs, markers, or control devices.

Title of Regulation: 24 VAC 30-550. Guidelines for the Logo Program (amending 24 VAC 30-550-10).

Statutory Authority: § 33.1-12 of the Code of Virginia.

Effective Date: July 2, 2002.

Summary:

These regulations establish minimum criteria, originally set by the Commonwealth Transportation Board in 1972, by which gas, food, lodging, and camping establishments may qualify for participation in VDOT's Travel Services Signing Program, commonly known as the Logo Program. The criteria apply to signage placed on the right of way of interstate highways, as well as controlled and limited access primary bypass routes. The amendments create a Category II Food Business and a Full Service Food Category and eliminate the requirement for program participants to have public telephones.

Agency Contact: Mauris S. Mackenzie, Transportation Programs Supervisor, Traffic Engineering Division, Department of Transportation, 1401 East Broad Street, 2nd Floor Annex, Richmond, VA 23219, telephone (804) 786-0203, FAX (804) 225-4978 or e-mail Mauris.Mackenzie@VirginiaDOT.org.

24 VAC 30-550-10. Minimum state criteria for participation in the Virginia Travel Services (Logo) Signing Program on rural interstate and controlled/limited access primary bypass routes.

A. All businesses desiring to participate in the program shall give written assurance of conformity with all applicable laws

concerning the provision of public accommodations without regard to race, religion, color, or national origin and shall not be in continuing breach of that assurance. All businesses shall be in compliance with the criteria applicable to their type of business prior to the execution of any contract or agreement for participation in the program and shall remain in compliance with the criteria, rules, and regulations of the program during the entire period of their participation. Unless otherwise noted, all services required by these criteria shall be performed in their entirety on the premises of the business establishment.

B. The table below sets forth minimum state criteria for the services specified:

SERVICE	MINIMUM STATE CRITERIA
Gas	<ol style="list-style-type: none">1. Shall be located not more than three miles from the gore of the first exit ramp in the direction of travel at the interchange where the logo is displayed, or not more than three miles from the center of the at-grade intersection where the logo is displayed.2. Shall provide fuel, oil, tire repair service, compressed air for tire inflation, and free water for battery and radiator. If tire repair service is unavailable on the premises of the business, the business shall provide information as to where a motorist may obtain such service.3. Shall provide free public restroom facilities with appropriate locks for the security of occupants and these facilities shall contain sink with running water for hand washing, a flush toilet, toilet tissue, and sanitary towels or other hand-drying devices.4. Shall provide free drinking water fountain and free cups as necessary for public use.5. Shall be in continuous operation at least 16 hours daily, seven days a week.6. Shall provide a public telephone.
Food, Category I	<ol style="list-style-type: none">1. Shall be located not more than three miles from the gore of the first exit ramp in the direction of travel at the interchange where the logo is displayed, or not more than three miles from the center of the at-grade intersection where the logo is displayed.2. Shall possess a valid permit from the State Board of Health as required by § 35.1-18 of the Code of Virginia.3. Shall have and keep in place easily accessible indoor seating at tables or counters to comfortably seat a minimum of 20 adult persons.4. Shall be in continuous operation at least 12 consecutive hours daily, beginning at 7 a.m., to serve breakfast, lunch, and dinner, six days a week. Breakfast shall be available for a minimum of two consecutive hours beginning at 7 a.m. and the menu offered shall include coffee, juice, and items from at least two of the following three groups:<ol style="list-style-type: none">(i) Eggs;(ii) Breakfast meat (e.g., bacon, sausage, ham, steak);(iii) Breakfast bread (e.g., toast, bagels, pastry) or cereal, or both.

SERVICE	MINIMUM STATE CRITERIA
	<p>Menu items that are not customarily served as breakfast foods (e.g., sandwiches not containing eggs or breakfast meat, or both, prepared on premises, hot dogs, hamburgers, and similar foods) will not be considered as satisfying these requirements. Eggs and breakfast meat shall be prepared on the premises (prepackaged items will not meet this requirement).</p> <p>5. Shall provide a public telephone.</p> <p>6. 5. Shall appropriately and conspicuously display or provide, or both, a menu within the establishment for all three meals.</p> <p>7. 6. Shall appropriately and conspicuously display the hours of operation in an area that is visible to the customer prior to entering the business.</p>
<i>Food, Category II</i>	<p>1. Shall be located not more than three miles from the gore of the first exit ramp in the direction of travel at the interchange where the logo is displayed, or not more than three miles from the center of the at-grade intersection where the logo is displayed.</p> <p>2. Shall possess a valid permit from the State Board of Health as required by § 35.1-18 of the Code of Virginia.</p> <p>3. Shall have and keep in place easily accessible indoor seating at tables or counters to comfortably seat a minimum of 20 adult persons.</p> <p>4. Shall be in continuous operation at least 12 consecutive hours daily, six days a week, serving any type food.</p> <p>5. Shall appropriately and conspicuously display or provide, or both, a menu within the establishment.</p> <p>6. Shall appropriately and conspicuously display the hours of operation in an area that is visible to the customer prior to entering the business.</p>
<i>Food, Full Serve</i>	<p>Full serve food establishments shall meet the Food, Category I criteria and the following:</p> <p>1. Shall have and keep in place easily accessible indoor seating at tables or counters to comfortably accommodate a minimum of 100 adult persons.</p> <p>2. Shall provide full sit-down table service, including the taking of orders and delivery of food, by a wait staff on duty during the operating hours specified by the criteria. Optional self-serve amenities such as soup and salad bars offered in addition to and in conjunction with sit-down table service are allowed. Businesses that employ self-service or counter service exclusively do not meet this requirement.</p> <p>3. Shall provide public restroom facilities.</p>
<i>Lodging</i>	<p>1. Shall be located not more than three miles from the gore of the first exit ramp in the direction of travel at the interchange where the logo is displayed, or not more than three miles from the center of the at-grade intersection where the logo is displayed.</p> <p>2. Shall possess a valid permit from the State Board of Health as required by § 35.1-18 of the Code of Virginia.</p>

SERVICE	MINIMUM STATE CRITERIA
	<p>3. Shall have not fewer than 10 lodging rooms for rent.</p> <p>4. Shall provide off-street passenger vehicle parking space for each lodging room for rent.</p> <p>5. Shall be in continuous 24-hour operation, seven days a week.</p> <p>6. Shall provide a public telephone.</p>
<i>Camping</i>	<p>1. Shall be located not more than 15 miles from the gore of the first exit ramp in the direction of travel at the interchange where the logo is displayed, or not more than 15 miles from the center of the at-grade intersection where the logo is displayed.</p> <p>2. Shall possess a valid permit from the State Board of Health as required § 35.1-18 of the Code of Virginia.</p> <p>3. Shall have space for not less than 10 vehicular overnight camping units for rent or hire.</p> <p>4. Shall provide off-street passenger vehicle parking space for each overnight camping unit space for rent or hire.</p> <p>5. Shall be in continuous 24-hour operation, seven days a week, but may be closed to the public for not more than 120 consecutive days between November 1 and the following April 1, during which time all business logo panels associated therewith shall be covered or removed.</p> <p>6. Shall provide a public telephone.</p>

C. Food, lodging, and camping establishments located outside Virginia but served by an interchange/intersection on a highway within Virginia may be exempted from the Virginia health permit requirements for participation in the program as long as they possess all necessary approved and valid health permits issued by an appropriate governing authority and meet all other criteria required under the Virginia Travel Services (Logo) Signing Program.

VA.R. Doc. No. R02-237; Filed July 2, 2002; 2:12 p.m.



EMERGENCY REGULATIONS

TITLE 4. CONSERVATION AND NATURAL RESOURCES

BOARD OF GAME AND INLAND FISHERIES

Title of Regulation: **4 VAC 15-380. Watercraft: Motorboat Numbering** (adding 4 VAC 15-380-120; repealing 4 VAC 15-380-60).

Statutory Authority: § 29.1-701 of the Code of Virginia; Item 392 of Chapter 899 of the 2002 Virginia Acts of Assembly.

Effective Dates: July 1, 2002, through June 30, 2003.

Preamble:

The emergency regulation is necessary to limit the fiscal year 2002-2003 shortfall between boating program revenue and costs to approximately \$1.425 million, as opposed to more than \$2.4 million. The projected shortfall results from a 2002 Appropriation Act reduction of \$2.8 million of Watercraft Sales and Use Tax revenue from the Department of Game and Inland Fisheries' fiscal year 2002-2003 appropriation. Reducing the shortfall between program revenue and program costs allows the department to sustain boating law enforcement, safety education, and related programs at a level at least sufficient to protect the boating public's basic safety and welfare on the waters of the Commonwealth.

Item 392 of the Appropriation Act, Chapter 899 of the 2002 Virginia Acts of Assembly at pages 326-327 authorizes the Department of Game and Inland Fisheries "to issue emergency regulations to enact an increase in motorboat registration fees."

Outside of this emergency regulation process the regulation is otherwise normally promulgated pursuant to procedures set out in §§ 29.1-500 and 29.1-701 E et seq. of the Code of Virginia.

The emergency regulation increases motorboat registration fees by up to nine dollars per three-year registration, as per the 2002 Appropriation Act authorization, and repeals the existing fee and process requirements for duplicate certificates of number currently stated in regulation.

Agency Contact: Phil Smith, Policy Analyst and Regulatory Coordinator, Department of Game and Inland Fisheries, 4010 W. Broad St., Richmond, VA 23230, telephone (804) 367-1000, FAX (804) 367-2311, or e-mail dgifweb@dgif.state.va.us.

~~4 VAC 15-380-60. Application for duplicate certificate of number. (Repeal.)~~

~~In the event of loss, a duplicate certificate of number may be applied for on a form to be provided by the department, accompanied by a fee of \$50. Not more than one certificate for a motorboat number may be in existence at any time.~~

4 VAC 15-380-120. Certificate of registration fees.

Pursuant to Item 392 of the Appropriation Act, Chapter 899 of the 2002 Virginia Acts of Assembly, at pages 326-327, which

states, "The Department shall prepare an analysis comparing the revenue derived from boat registration fees to the costs of implementing the programs and activities authorized under the state's boating laws. If the costs exceed the revenues, the Board of Game and Inland Fisheries, at its discretion, is authorized to increase motorboat registration fees by an amount not to exceed nine dollars per certificate. The Department of Game and Inland Fisheries shall have the authority to issue emergency regulations to enact an increase in motorboat registration fees." After a finding by the Department of Game and Inland Fisheries that the department's cost of implementing the programs and activities authorized under the boating laws of the Commonwealth in fiscal year 2001 was \$7,402,000, exceeding the \$2,011,000 in revenues derived from sales of motorboat certificates of registration, the following fee structure is implemented effective July 1, 2002, as an emergency regulation of the department and shall be paid by applicants for certificates of registration.

<i>For a motorboat under 16 feet</i>	<i>\$27</i>
<i>For a motorboat 16 feet to less than 20 feet</i>	<i>\$31</i>
<i>For a motorboat 20 feet to less than 40 feet</i>	<i>\$37</i>
<i>For a motorboat 40 feet and over</i>	<i>\$45</i>
<i>For first 10 actively registered motorboats by the same owner</i>	<i>\$27</i>
<i>For more than 10 actively registered motorboats by the same owner</i>	<i>\$21</i>
<i>For a duplicate certificate of registration and/or decal</i>	<i>\$9</i>

*/s/ Mark R. Warner
Governor
Date: June 26, 2002*

VA.R. Doc. No. R02-231; Filed June 27, 2002, 3:12 p.m.

TITLE 12. HEALTH

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Title of Regulation: **12 VAC 30-90. Methods and Standards for Establishing Payment Rates for Long-Term Care** (adding 12 VAC 30-90-41.1).

Statutory Authority: §§ 32.1-324 and 32.1-325 of the Code of Virginia.

Effective Dates: July 1, 2002, through June 30, 2003.

Preamble:

This regulatory action responds to a change in the Virginia Appropriation Act that must be effective within 280 days from the date of enactment of the Appropriation Act (Chapter 899, 2002 Acts of Assembly, Item 325 HH 1 and 2).

This regulatory action changes the indirect patient care operating ceiling and median calculation, and eliminates the inflation adjustment for indirect patient care rates and peer

group ceilings for indirect costs in state fiscal year 2003 for nursing facilities. These issues will be discussed in this order.

Indirect Patient Care Ceiling

Currently the indirect patient care operating ceiling is set at 106.9% of the median of facility specific indirect cost per day. The calculation of the median is based on cost reports from freestanding nursing homes for provider fiscal years ending in calendar year 1998. In accordance with the State Plan, DMAS revises its ceilings every two years. This regulatory action is necessary to implement revisions to calculating indirect costs as directed by House Bill 30. The Budget Bill reduced funding, mandating a decrease in the indirect patient care operating cost ceiling. The ceiling will decrease from 106.9% to 103.9% of the median of nursing facility specific costs. The General Assembly made the decision to set the indirect patient care operating ceiling at 103.9%, and to base the calculation of the median on cost reports from freestanding nursing homes for provider fiscal years ending in calendar year 2000.

Inflation Adjustment

Nursing facilities currently have their prospective operating cost ceilings (direct and indirect) and prospective operating cost rates adjusted for inflation. The allowance for inflation is based on the percentage of change in the moving average of the Skilled Nursing Facility Market Basket of Routine Service Costs, as developed by Data Resources, Incorporated (DRI-WEFA), adjusted for Virginia, determined in the quarter in which the nursing facility's most recent fiscal year ended. House Bill 30 directed that the Department of Medical Assistance Services amend the State Plan for Medical Assistance to eliminate the increase for inflation to indirect patient care rates in State Fiscal Year 2003. No changes are made in reimbursement for direct patient care.

Agency Contact: N. Stanley Fields, Director, Division of Reimbursement and Cost Settlement, Department of Medical Assistance Services, 600 E. Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 786-5590, FAX (804) 786-1680 or e-mail sfields@dmass.state.va.us.

12 VAC 30-90-41.1. Modifications to nursing facility reimbursement formula.

A. Effective on and after July 1, 2002, the indirect operating ceiling as referenced at 12 VAC 30-90-41 A 5 shall be set at 103.9% of the referenced indirect operating cost median as determined from the cost reports for the base year 2000.

B. Effective on July 1, 2002, and for only state fiscal year 2003, the adjustment for inflation of indirect operating cost ceilings and indirect operating cost rates as referenced at 12 VAC 30-90-41 B shall be made using an inflation percentage of 0%. The effective result is that no inflation adjustment will be applied to determine the indirect operating cost ceilings and/or the indirect operating cost rates applicable during state fiscal year 2003.

C. The provisions of this section shall supersede the applicable provisions in 12 VAC 30-90-41.

/s/ Mark R. Warner
Governor
Date: June 26, 2002

VA.R. Doc. No. R02-235; Filed July 1, 2002; 4:19 p.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD FOR BARBERS AND COSMETOLOGY

Title of Regulation: **18 VAC 41-20. Regulations – Barbering and Cosmetology.**

Statutory Authority: §§ 2.2-4011 A and 54.1-205 of the Code of Virginia.

Effective Dates: July 2, 2002, through July 1, 2003.

Preamble:

The 2000 General Assembly passed legislation combining the Board for Barbers and Board for Cosmetology (See Acts 2000, c. 726). The legislation provided "That the regulations of the Board for Barbers and the Board for Cosmetology in effect on June 30, 2000, shall remain in effect until July 1, 2002, or until the Board for Barbers and Cosmetology adopts new regulations, whichever occurs first." The combined Board will have failed to adopt new regulations by the July 1, 2002 date. Therefore, on July 1, 2002, no regulations will be in place. The regulations contain the requirements for obtaining a license, standards of conduct and inspection standards.

Agency Contact: William H. Ferguson, II, Assistant Director, Board for Barbers and Cosmetology, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8590, FAX (804) 367-6295 or e-mail barbercosmo@dpor.state.va.us.

CHAPTER 20.

REGULATIONS – BARBERING AND COSMETOLOGY.

PART I. GENERAL.

18 VAC 41-20-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise. All terms defined in Chapter 7 (§ 54.1-700 et seq.) of Title 54.1 of the Code of Virginia are incorporated in this chapter.

"Affidavit" means a written statement of facts, made voluntarily and confirmed by the oath or affirmation of the party making it, taken before a notary or other person having the authority to administer such oath or affirmation.

"Direct supervision" means that a Virginia licensed barber, cosmetologist, or nail technician shall be present in the barbershop, cosmetology salon, or nail technician salon at all times when services are being performed by a temporary permit holder or registered apprentice.

Emergency Regulations

"Endorsement" means a method of obtaining a license by a person who is currently licensed in another state.

"Licensee" means any person, partnership, association, limited liability company, or corporation holding a license issued by the Board for Barbers and Cosmetology, as defined in § 54.1-700 of the Code of Virginia.

"Reciprocity" means a conditional agreement between two or more states that will recognize one another's regulations and laws for equal privileges for mutual benefit.

"Reinstatement" means having a license or certificate restored to effectiveness after the expiration date has passed.

"Renewal" means continuing the effectiveness of a license or certificate for another period of time.

"Virginia state institution" for the purposes of these regulations means any institution approved by the Virginia Department of Education or the Virginia Department of Corrections.

PART II. ENTRY.

18 VAC 41-20-20. General requirements for a barber, cosmetologist, or nail technician license.

A. In order to receive a license as a barber, cosmetologist, or nail technician, an applicant must meet the following qualifications:

1. The applicant shall be in good standing as a licensed barber, cosmetologist, or nail technician in every jurisdiction where licensed. The applicant shall disclose to the board at the time of application for licensure any disciplinary action taken in another jurisdiction in connection with the applicant's practice as a barber, cosmetologist, or nail technician. The applicant shall disclose to the board at the time of application for licensure whether he has been previously licensed in Virginia as a barber, cosmetologist, or nail technician.

2. The applicant shall disclose his physical address. A post office box is not acceptable.

3. The applicant shall sign, as part of the application, an affidavit certifying that the applicant has read and understands the Virginia barber and cosmetology license laws and the regulations of the board.

4. In accordance with § 54.1-204 of the Code of Virginia, the applicant shall not have been convicted in any jurisdiction of a misdemeanor or felony that directly relates to the profession of barbering, cosmetology, or nail care. The board shall have the authority to determine, based upon all the information available, including the applicant's record of prior convictions, if the applicant is unfit or unsuited to engage in the profession of barbering, cosmetology, or nail care. The board will decide each case by taking into account the totality of the circumstances. Any plea of nolo contendere shall be considered a conviction for the purposes of this section. The applicant shall provide a certified copy of a final order, decree or case decision by a court or regulatory agency with the lawful authority to issue such order, decree or case decision, and such copy shall be admissible as prima facie evidence of such conviction. This

record shall be forwarded by the applicant to the board within 10 days after all appeal rights have expired.

5. The applicant shall provide evidence satisfactory to the board that the applicant has passed the board approved examination, administered either by the board or by independent examiners.

B. Eligibility to sit for board-approved examination.

1. Training in the Commonwealth of Virginia. Any person completing an approved barber, cosmetology, or nail technician training program in a Virginia licensed barber, cosmetology, or nail technician school, respectively, or a Virginia public school's barber, cosmetology, or nail technician program approved by the State Department of Education shall be eligible for examination.

2. Training outside of the Commonwealth of Virginia, but within the United States and its territories.

a. Any person completing a barber or cosmetology training program that is substantially equivalent to the Virginia program but is outside of the Commonwealth of Virginia must submit to the board documentation of the successful completion of 1,500 hours of training to be eligible for examination. If less than 1,500 hours of barber or cosmetology training was completed, an applicant must submit a certificate, diploma or other documentation acceptable to the board verifying the completion of a substantially equivalent barber or cosmetology course and documentation of six months of barber or cosmetology work experience in order to be eligible for examination.

b. Any person completing a nail technician training program that is substantially equivalent to the Virginia program but is outside of the Commonwealth of Virginia must submit to the board documentation of the successful completion of 150 hours of training to be eligible for examination. If less than 150 hours of nail technician training was completed, an applicant must submit a certificate, diploma or other documentation acceptable to the board verifying the completion of a substantially equivalent nail technician course and documentation of six months of nail technician work experience in order to be eligible for the nail technician examination.

18 VAC 41-20-30. License by endorsement.

Upon proper application to the board, any person currently licensed to practice as a barber, cosmetologist, or nail technician who is a barber, cosmetology or nail technician instructor in any other state or jurisdiction of the United States and who has completed both a training program and a written and practical examination that is substantially equivalent to that required by these regulations, may be issued a barber, cosmetology, or nail technician license or a barber, cosmetology or nail technician instructor certificate, respectively, without an examination. The applicant must also meet the requirements set forth in 18 VAC 41-20-20.

18 VAC 41-20-40. Apprenticeship training.

A. Licensed barbers, cosmetologists, and nail technicians who train apprentices shall comply with the standards for

apprenticeship training established by the Division of Apprenticeship Training of the Virginia Department of Labor and Industry and the Virginia Board for Barbers and Cosmetology. Owners of barbershops, cosmetology salons, and nail salons who train apprentices shall comply with the standards for apprenticeship training established by the Division of Apprenticeship Training of the Virginia Department of Labor and Industry.

B. Any person completing the Virginia apprenticeship program in barbering, cosmetology, or nail care shall be eligible for examination.

18 VAC 41-20-50. Exceptions to training requirements.

A. Virginia licensed cosmetologists with a minimum of two years of work experience shall be eligible for the barber examination; likewise, a Virginia licensed barber with a minimum of two years of work experience shall be eligible for the cosmetology examination.

B. Virginia licensed barbers with less than two years of work experience and Virginia barber students enrolling in a Virginia cosmetology training school shall be given educational credit for the training received for the performances completed at a barber school; likewise, licensed Virginia cosmetologists with less than two years of work experience and Virginia cosmetology students enrolling in a Virginia barber training school shall be given educational credit for the training received for the performances completed at a cosmetology school.

C. Any barber, cosmetologist, or nail technician applicant having been trained as a barber, cosmetologist, or nail technician in any Virginia state institution shall be eligible for the respective examination.

D. Any barber or cosmetologist applicant having a minimum of two years experience in barbering or cosmetology in the United States armed forces and having provided documentation satisfactory to the board of that experience shall be eligible for the respective examination.

18 VAC 41-20-60. Examination requirements and fees.

A. Applicants for initial licensure shall pass both a practical and written examination approved by the board. The examinations may be administered by the board or by a designated testing service.

B. Any applicant who passes one part of the examination shall not be required to take that part again provided both parts are passed within one year of the initial examination date.

C. Any candidate failing to appear as scheduled for examination shall forfeit the examination fee.

D. The fee for examination or re-examination is subject to contracted charges to the board by an outside vendor. These contracts are competitively negotiated and bargained for in compliance with the Virginia Public Procurement Act (§ 11-35 et seq. of the Code of Virginia). Fees may be adjusted and charged to the candidate in accordance with these contracts. The fee shall not exceed \$225 per candidate.

18 VAC 41-20-70. Reexamination requirements.

Any applicant who does not pass a reexamination within one year of the initial examination date shall be required to submit a new application and examination fee.

18 VAC 41-20-80. Examination administration.

A. The examinations shall be administered by the board or the designated testing service. The practical examination shall be supervised by a chief examiner.

B. Every barber, cosmetology, or nail technician examiner shall hold a current Virginia license in their respective professions, have three or more years of active experience as a licensed professional and be currently practicing in that profession. Examiners shall attend training workshops sponsored by the board or by a testing service acting on behalf of the board.

C. No certified barber, cosmetology, or nail technician instructor who is currently teaching, or is a school owner, or is an apprentice sponsor shall be an examiner.

D. Each barber, cosmetology, and nail technician chief examiner shall hold a current Virginia license in his respective profession, have five or more years of active experience in that profession, have three years of active experience as an examiner, and be currently practicing in his respective profession. Chief examiners shall attend training workshops sponsored by the board or by a testing service acting on behalf of the board.

E. The applicant shall follow all procedures established by the board with regard to conduct at the examination. Such procedures shall include any written instructions communicated prior to the examination date and any instructions communicated at the site, either written or oral, on the date of the examination. Failure to comply with all procedures established by the board and the testing service with regard to conduct at the examination may be grounds for denial of application.

18 VAC 41-20-90. Barber, cosmetology, and nail technician temporary permits.

A. A temporary permit to work under the supervision of a currently licensed barber, cosmetologist or nail technician may be issued only to applicants for initial licensure that the board finds eligible for examination. There shall be no fee for a temporary permit.

B. The temporary permit shall remain in force for 45 days following the examination date. The examination date shall be the first test date after the applicant has successfully submitted an application to the board that an examination is offered to the applicant by the board.

C. Any person continuing to practice barbering, cosmetology, or nail care services after a temporary permit has expired may be prosecuted and fined by the Commonwealth under §§ 54.1-111 A 1 and 54.1-202 of the Code of Virginia.

D. No applicant for examination shall be issued more than one temporary permit.

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18 VAC 41-20-100. General requirements for a barber instructor certificate, cosmetology instructor certificate or nail technician instructor certificate.

A. Upon filing an application with the Board for Barbers and Cosmetology, any person meeting the qualifications set forth in this section shall be eligible for a barber, cosmetology, or nail technician instructor certificate, if the person:

1. Holds a current Virginia barber, cosmetology, or nail technician license, respectively; and
2. Passes a course in teaching techniques at the post-secondary educational level; or
3. Completes an instructor training course approved by the Virginia Board for Barbers and Cosmetology under the supervision of a certified barber, cosmetologist, or nail technician instructor in a barber, cosmetology, or nail technician school, respectively; or
4. Passes an examination in barber, cosmetology or nail technician instruction respectively, administered by the board or by a testing service acting on behalf of the board.

B. Applicants passing the examination for a barber, cosmetology or nail technician instructor certificate shall be required to maintain a barber, cosmetology or nail technician license.

18 VAC 41-20-110. Student instructor temporary permit.

A licensed barber, cosmetologist, or nail technician may be granted a student instructor temporary permit to function under the direct supervision of a barber instructor, cosmetology instructor, or nail technician instructor respectively. A licensed nail technician may also be granted a student instructor permit to function under the direct supervision of a cosmetology instructor. The student instructor temporary permit shall remain in force for not more than 12 months after the date of issuance and shall be nontransferable and nonrenewable. Failure to maintain a barber, cosmetology, or nail technician license shall disqualify an individual from holding a student instructor temporary permit.

18 VAC 41-20-120. Shop or salon license.

A. Any individual wishing to operate a barbershop, cosmetology or nail salon shall obtain a shop or salon license in compliance with § 54.1-704.1 of the Code of Virginia.

B. A barbershop, cosmetology or nail salon license shall not be transferable and shall bear the same name and address of the business. Any changes in the name, address, or ownership of the shop or salon shall be reported to the board in writing within 30 days of such changes. New owners shall be responsible for reporting such changes in writing to the board within 30 days of the changes.

C. In the event of a closing of a barbershop or cosmetology or nail salon, the board must be notified by the owners in writing within 30 days of the closing, and the license must be returned by the owners to the board.

18 VAC 41-20-130. School license.

A. Any individual wishing to operate a barber, cosmetology, or nail technician school shall obtain a school license in compliance with § 54.1-704.2 of the Code of Virginia. All instruction and training of barbers, cosmetologists, or nail technicians shall be conducted under the direct supervision of a licensed barber, cosmetologist, or nail technician, respectively.

B. A barber, cosmetology, or nail technician school license shall not be transferable and shall bear the same name and address as the school. Any changes in the name or address of the school shall be reported to the board in writing within 30 days of such change. The name of the school must indicate that it is an educational institution. All signs, or other advertisements, must reflect the name as indicated on the license issued by the board and contain language indicating it is an educational institution.

C. In the event of a change of ownership of a school, the new owners shall be responsible for reporting such changes in writing to the board within 30 days of the changes.

D. In the event of a school closing, the board must be notified by the owners in writing within 30 days of the closing, and the license must be returned.

PART III. FEES.

18 VAC 41-20-140. Fees.

The following fees apply:

FEE TYPE	AMOUNT DUE	WHEN DUE
Individuals:		
Application	\$55	With application
License by Endorsement	\$55	With application
Renewal:		
Barber	\$55	With renewal card prior to expiration date
Cosmetologist	\$55	With renewal card prior to expiration date
Nail technician	\$55	With renewal card prior to expiration date
Reinstatement	\$55	With reinstatement application
Instructors:		
Application	\$60	With application
License by Endorsement	\$60	With application
Renewal	\$60	With renewal card prior to expiration date
Reinstatement	\$60	With reinstatement application

<i>Facilities:</i>		
<i>Application</i>	<i>\$90</i>	<i>With application</i>
<i>Renewal</i>	<i>\$90</i>	<i>With renewal card prior to expiration date</i>
<i>Reinstatement</i>	<i>\$90</i>	<i>With reinstatement application</i>
<i>Schools:</i>		
<i>Application</i>	<i>\$120</i>	<i>With application</i>
<i>Add Program</i>	<i>\$60</i>	<i>With application</i>
<i>Renewal</i>	<i>\$120</i>	<i>With reinstatement application</i>
<i>Reinstatement</i>	<i>\$120</i>	<i>With renewal card prior to expiration date</i>

18 VAC 41-20-150. Refunds.

All fees are nonrefundable and shall not be prorated.

PART IV. RENEWAL/REINSTATEMENT.

18 VAC 41-20-160. License renewal required.

A. All barber licenses, cosmetology licenses, nail technician licenses, barbershop licenses, cosmetology salon licenses, and nail technician salon licenses shall expire two years from the last day of the month in which they were issued.

B. All barber instructor certificates, cosmetology instructor certificates, and nail technician instructor certificates shall expire on the same date as the certificate holder's license expiration date.

C. All school licenses shall expire on December 31 of each even-numbered year.

18 VAC 41-20-170. Notice of renewal.

The Department of Professional and Occupational Regulation will mail a renewal notice to the licensee or certificate holder outlining the procedures for renewal. Failure to receive this notice, however, shall not relieve the licensee or certificate holder of the obligation to renew. If the licensee or certificate holder fails to receive the renewal notice, a copy of the old license or certificate may be submitted as evidence of intent to renew, along with the required fee.

18 VAC 41-20-180. Failure to renew.

A. When a licensed or certified individual or entity fails to renew its license or certificate within 30 days following its expiration date, the licensee or certificate holder shall apply for reinstatement of the license or certificate by submitting to the Department of Professional and Occupational Regulation a reinstatement application and renewal fee and reinstatement fee.

B. When a barber, cosmetologist, or nail technician fails to renew his license within two years following the expiration date, reinstatement is no longer possible. To resume practice, the former licensee shall apply for licensure as a new

applicant, shall meet all current application requirements, shall pass the board's current examination and shall receive a new license. Individuals applying for licensure under this section shall be eligible to apply for a temporary permit from the board under 18 VAC 41-20-90.

C. When a barber instructor, cosmetology instructor, or nail technician instructor fails to renew his certificate within two years following the expiration date, reinstatement is no longer possible. To resume practice, the former certificate holder shall apply as a new applicant, meet all current application requirements, and receive a new license or temporary permit from the board. Upon receiving the new license, the individual may apply for a new instructor's certificate.

D. The application for reinstatement for a school shall provide the reasons for failing to renew prior to the expiration date, and a notarized statement that all students currently enrolled or seeking to enroll at the school have been notified in writing that the school's license has expired. All of these materials shall be called the application package. Reinstatement will be considered by the board if the school consents to and satisfactorily passes an inspection of the school and if the school's records are maintained in accordance with 18 VAC 41-20-250 and 18 VAC 41-20-260 by the Department of Professional and Occupational Regulation. Pursuant to 18 VAC 41-20-190, upon receipt of the reinstatement fee, application package, and inspection results, the board may reinstate the school's license or require requalification or both. If the reinstatement application package and reinstatement fee are not received by the board within six months following the expiration date of the school's license, the board will notify the testing service that prospective graduates of the unlicensed school are not acceptable candidates for the examination. Such notification will be sent to the school and must be displayed in a conspicuous manner by the school in an area that is accessible to the public. No student shall be disqualified from taking the examination because the school was not licensed for a portion of the time the student attended if the school license is reinstated by the board.

E. The date a renewal fee is received by the Department of Professional and Occupational Regulation, or its agent, will be used to determine whether a penalty fee or the requirement for reinstatement of a license or certificate is applicable.

F. When a license or certificate is reinstated, the licensee or certificate holder shall be assigned an expiration date two years from the date of the last day of the month of reinstatement except for school licenses which shall expire on December 31 of each even-numbered year.

G. A licensee or certificate holder who reinstates his license or certificate shall be regarded as having been continuously licensed or certified without interruption. Therefore, a licensee or certificate holder shall be subject to the authority of the board for activities performed prior to reinstatement.

H. A licensee or certificate holder who fails to reinstate his license or certificate shall be regarded as unlicensed or uncertified from the expiration date of the license or certificate forward. Nothing in these regulations shall divest the board of its authority to discipline a licensee or certificate holder for a

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violation of the law or regulations during the period of time for which the individual was licensed or certified.

PART V. BARBER AND COSMETOLOGY SCHOOLS.

18 VAC 41-20-190. Applicants for state approval.

A. Any person, firm, or corporation desiring to operate a barber, cosmetology, or nail school shall submit an application to the board at least 60 days prior to the date for which approval is sought.

B. Barber schools, nail schools, or cosmetology schools under the Virginia Department of Education shall be exempted from licensure requirements.

18 VAC 41-20-200. General requirements.

A barber, cosmetology, or nail school shall:

1. Hold a school license for each and every location.
2. Hold a salon license if the school receives compensation for services provided in its clinic.
3. Employ a staff of licensed and certified barber, cosmetology, or nail technician instructors.
4. Develop individuals for entry level competency in barbering, cosmetology, or nail care.
5. Submit its curricula for board approval.
 - a. Barber curricula shall be based on a minimum of 1,500 clock hours and shall include performances in accordance with 18 VAC 41-20-220.
 - b. Cosmetology curricula shall be based on a minimum of 1,500 clock hours and shall include performances in accordance with 18 VAC 41-20-220.
 - c. Nail technician curricula shall be based on a minimum of 150 clock hours and shall include performances in accordance with 18 VAC 41-20-220.
6. Inform the public that all services are performed by students if the school receives compensation for services provided in its clinic by posting a notice in the reception area of the shop or salon in plain view of the public.
7. Classroom instruction must be conducted in an area separate from the clinic area where practical instruction is conducted and services are provided.

18 VAC 41-20-210. Curriculum requirements.

A. Each barber school shall submit with its application a curriculum including, but not limited to, a course syllabus, a detailed course content outline, a sample of five lesson plans, a sample of evaluation methods to be used, and a breakdown of hours and performances for all courses to be taught that will lead to licensure. The outline for barbering shall include, but not be limited to, the following:

1. School policies;
2. State law, regulations and professional ethics;
3. Business and shop management;

4. Client consultation;
5. Personal hygiene;
6. Cutting the hair with a razor, clippers, shears;
7. Tapering the hair;
8. Thinning the hair;
9. Shampooing the hair;
10. Styling the hair with a hand hair dryer;
11. Thermal waving;
12. Permanent waving with chemicals;
13. Shaving;
14. Trimming a moustache or beard;
15. Applying hair color;
16. Lightening or toning the hair;
17. Analyzing skin or scalp conditions;
18. Giving scalp treatments;
19. Giving facial massage or treatment;
20. Sanitizing and maintaining implements and equipment; and
21. Honing and stropping a razor.

B. Each cosmetology school shall submit with its application a curriculum including, but not limited to, a course syllabus, a detailed course content outline, a sample of five lesson plans, a sample of evaluation methods to be used, and a breakdown of hours and performances for all courses to be taught that will lead to licensure. The outline for cosmetology shall include, but not be limited to, the following:

1. Orientation:
 - a. School policies;
 - b. State law, regulations, and professional ethics;
 - c. Personal hygiene; and
 - d. Bacteriology, sterilization, and sanitation.
2. Manicuring and pedicuring:
 - a. Anatomy and physiology;
 - b. Diseases and disorders;
 - c. Procedures to include both natural and artificial application; and
 - d. Sterilization.
3. Shampooing and rinsing:
 - a. Fundamentals;
 - b. Safety rules;
 - c. Procedures; and
 - d. Chemistry, anatomy, and physiology.

4. Scalp treatments:
 - a. Analysis;
 - b. Disorders and diseases;
 - c. Manipulations; and
 - d. Treatments.
5. Hair styling:
 - a. Anatomy and facial shapes;
 - b. Finger waving, molding and pin curling;
 - c. Roller curling, combing, and brushing; and
 - d. Heat curling, waving, braiding and pressing.
6. Hair cutting:
 - a. Anatomy and physiology;
 - b. Fundamentals, materials, and equipment;
 - c. Procedures; and
 - d. Safety practices.
7. Permanent waving-chemical relaxing:
 - a. Analysis;
 - b. Supplies and equipment;
 - c. Procedures and practical application;
 - d. Chemistry;
 - e. Recordkeeping; and
 - f. Safety.
8. Hair coloring and bleaching:
 - a. Analysis and basic color theory;
 - b. Supplies and equipment;
 - c. Procedures and practical application;
 - d. Chemistry and classifications;
 - e. Recordkeeping; and
 - f. Safety.
9. Skin care and make-up:
 - a. Analysis;
 - b. Anatomy;
 - c. Health, safety, and sanitary rules;
 - d. Procedures;
 - e. Chemistry and light therapy;
 - f. Temporary removal of hair; and
 - g. Lash and brow tinting.
10. Wigs, hair pieces, and related theory:
 - a. Sanitation and sterilization;

- b. Types; and
 - c. Procedures.
11. Salon management:
 - a. Business ethics; and
 - b. Care of equipment.

18 VAC 41-20-220. Hours of instruction and performances.

A. Curriculum and performance requirements shall be offered over a minimum of 1,500 clock hours for barbering and cosmetology, 150 clock hours for nail care.

B. The curriculum requirements for barbering must include the following minimum performances:

Hair and scalp treatments	10
Hair styling	320
Tinting	15
Bleaching and frosting	10
Temporary rinses	10
Semi-permanent color	10
Cold permanent waving or chemical relaxing	25
Hair shaping	50
Wig care, styling, placing on model	5
Finger waving and thermal waving	30
Facials and waxings	5
TOTAL	490

C. The curriculum requirements for cosmetology must include the following minimum performances:

Hair and scalp treatments	10
Hair styling	320
Tinting	15
Bleaching and frosting	10
Temporary rinses	10
Semi-permanent color	10
Cold permanent waving or chemical relaxing	25
Hair shaping	50
Wig care, styling, placing on model	5
Finger waving and thermal waving	30
Manicures/pedicures	15
Facials and waxings	5
Sculptured nails/nail tips/wraps	20
TOTAL	525

D. The curriculum requirements for nail care must include the following minimum performances:

Manicures	30
Pedicures	15
Individual sculptured nails/nail tips	200
Individual removals	10
Individual nail wraps	20
TOTAL	275

18 VAC 41-20-230. School identification.

Each barber, cosmetology, or nail care school approved by the board shall identify itself to the public as a teaching institution.

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18 VAC 41-20-240. Records.

Schools are required to keep upon graduation, termination or withdrawal, written records of hours and performances showing what instruction a student has received for a period of five years after the student terminates or completes the curriculum of the school. These records shall be available for inspection by the department. All records must be kept on the premises of each school.

18 VAC 41-20-250. Hours reported.

Within 30 days of the closing of a licensed barber school, cosmetology school, or nail care school, for any reason, the school shall provide a written report to the board on performances and hours of each of its students who have not completed the program.

PART VI. STANDARDS OF PRACTICE.

18 VAC 41-20-260. Display of license.

A. Each shop owner, salon owner or school owner shall ensure that all current licenses, certificates or permits issued by the board shall be displayed in the reception area of the shop, salon or school in plain view of the public. Duplicate licenses, certificates or permits shall be posted in a like manner in every shop, salon or school location where the regulant provides services.

B. Each shop owner, salon owner or school owner shall ensure that no employee, licensee, student or apprentice performs any service beyond the scope of practice for the applicable license.

C. All licensees, certificate holders and permit holders shall operate under the name in which the license, certificate, or permit is issued.

D. Unless also licensed as a cosmetologist, a barber is required to hold a separate nail technician license if he will be performing manicures or pedicures or applying artificial nails.

E. All apprenticeship cards issued by the Department of Labor and Industry (DOLI) shall be displayed in plain view of the public in the reception area of the shop or salon. The apprentice sponsor shall require each apprentice to wear a badge clearly indicating their status as a DOLI registered apprentice.

18 VAC 41-20-270. Sanitation and safety standards for shops, salons, and schools.

A. Sanitation and safety standards:

Any shop, salon, school or facility where barber, cosmetology, or nail services are delivered to the public must be clean and sanitary at all times. Compliance with these rules does not confer compliance with other requirements set forth by federal, state and local laws, codes, ordinances, and regulations as they apply to business operation, physical construction and maintenance, safety, and public health. Licensees shall take sufficient measures to prevent the transmission of communicable and infectious diseases and comply with the sanitation

standards identified in this section and shall insure that all employees likewise comply.

B. Disinfection and storage of implements:

1. A wet disinfection unit is a container large enough to hold a disinfectant solution in which the objects to be disinfected are completely immersed. A wet disinfection unit must have a cover to prevent contamination of the solution. The solution must be an Environmental Protection Agency (EPA) registered hospital (grade) and tuberculocidal disinfectant solution. Disinfectant solutions shall be used according to manufacturer's directions. Disinfection is to be carried out in the following manner:

- a. Remove hair and all foreign matter from the object.
- b. Wash thoroughly with hot water and soap.
- c. Rinse thoroughly with clean water and dry thoroughly with a clean paper towel.
- d. Fully immerse instruments into solution, and
- e. After immersion, rinse articles, thoroughly dry with a clean paper towel and store in a clean predisinfected and dry cabinet, drawer, or nonairtight covered container, or leave instruments in an EPA registered disinfection/storage solution used according to manufacturer's directions.

2. For the purpose of recharging, rechargeable clippers may be stored in an area other than in a closed cabinet or container. This area shall be clean and the cutting edges of any clippers are to be disinfected.

3. Electrical clipper blades shall be disinfected before and after each use. Disinfection is to be carried out in the following manner:

- a. Remove all hair and foreign matter;
- b. Remove blade and all hair and foreign matter under blade; and
- c. Completely immerse clipper blade into an EPA registered hospital (grade) and tuberculocidal disinfectant solution for not less than 10 minutes. Wipe the entire handle down with the solution.
- d. If the clipper blade cannot be removed, the use of a spray or foam used according to the manufacturer's instructions will be acceptable provided that the disinfectant is an EPA registered hospital (grade) and tuberculocidal disinfectant solution, and that the entire handle is also disinfected by wiping with the disinfectant solution.

4. All materials including cosmetic and nail brushes, sponges, chamois, spatulas and galvanic electrodes must be cleaned with warm water and soap or detergent to remove all foreign matter. Implements should then be rinsed, thoroughly dried with a clean paper towel, and completely immersed in an EPA registered hospital (grade) and tuberculocidal disinfectant solution. Such implements shall be soaked for 10 minutes or more, removed, rinsed, dried thoroughly and stored in a predisinfected and dry drawer, cabinet or nonairtight covered container, or left in

an EPA registered disinfection/storage solution used according to manufacturer's directions.

5. All wax pots will be cleaned and disinfected with an EPA registered hospital (grade) and tuberculocidal disinfectant solution with no sticks left standing in the wax at any time.

6. Each barber, cosmetologist, and nail technician must have a wet disinfection unit at his station.

7. Nail brushes, nippers, finger bowls, disinfected or washable files and buffers and other instruments must be washed in soap and water (files are to be scrubbed with a brush to remove all foreign matter), rinsed, thoroughly dried with a clean paper towel, and then completely immersed in an EPA registered hospital (grade) and tuberculocidal disinfectant solution for 10 minutes after each use. After disinfection they must be rinsed, dried thoroughly with a clean paper towel, and placed in a dry, pre-disinfected, nonairtight covered receptacle, cabinet or drawer, or left in an EPA registered disinfectant/storage system used according to manufacturer's directions.

8. Drill bits are to be soaked in acetone and scrubbed with a wire brush to remove all foreign matter. All foreign matter must be removed. The drill bits must then be cleaned with warm water and soap or detergent and rinsed, dried thoroughly with a clean paper towel, and completely immersed in an EPA registered hospital (grade) and tuberculocidal disinfectant solution. Such implements shall be soaked for 10 minutes or more, removed, rinsed, dried thoroughly, and stored in a pre-disinfected and dry drawer, cabinet or nonairtight covered container, or left in an EPA registered disinfection/storage solution used according to manufacturer's directions.

C. General sanitation and safety requirements:

1. All furniture, walls, floors, and windows shall be clean and in good repair. Wash basins and shampoo sinks shall be clean.

2. The floor surface in the immediate work area must be of a washable surface other than carpet. The floor must be kept clean, free of hair, dropped articles, spills and electrical cords;

3. Walls and ceilings in the immediate work area must be in good repair, free of water seepage and dirt. Any mats shall be secured or shall lay flat;

4. A fully functional bathroom in the same building with a working toilet and sink must be available for clients. Fixtures must be in good condition. The bathroom must be lighted and sufficiently ventilated. If there is a window, it must have a screen. There must be antibacterial soap and clean individual towels for the client's use. Laundering of towels is allowed, space permitting. The bathroom must not be used as a work area or for the open storage of chemicals;

5. General areas for client use must be neat and clean with a waste receptacle for common trash;

6. Electrical cords shall be placed to prevent entanglement by the client or licensee;

7. Electrical outlets shall be covered by plates;

8. The salon area shall be sufficiently ventilated to exhaust hazardous or objectionable airborne chemicals, and to allow the free flow of air;

9. Adequate lighting shall be provided.

D. Equipment sanitation:

1. Service chairs, wash basins, shampoo sinks and workstations shall be clean. Floors shall be kept free of hair, nail product, and other waste materials. Combs, brushes, towels, razors, clippers, scissors, nippers, and other instruments shall be cleaned and sanitized after every use and stored free from contamination.

2. The top of workstands or back bars shall be kept clean;

3. The work area shall be free of clutter, trash, and any other items which may cause a hazard;

4. Heat producing appliances and equipment shall be placed so as to prevent any accidental injury to the client or licensee; and

5. Electrical appliances and equipment shall be in safe working order at all times.

E. Articles, tools and products:

1. Clean towels and robes shall be used for each patron. Soiled towels and robes or smocks shall be stored in an enclosed container except if the towels are in separate laundry rooms.

2. Whenever a haircloth is used, a clean towel or neck strip shall be placed around the neck of the patron to prevent the haircloth from touching the skin.

3. Scissors, razors, clippers, nippers, and all sharp-edged cutting instruments shall be sanitized after each use with a disinfectant in accordance with the manufacturer's instructions.

4. Hair brushes and combs shall be washed in soap and hot water and sanitized after each use. Cleaned instruments, such as combs, hair brushes, shears, towels, etc., shall be kept free from contamination.

5. No alum or other astringent shall be used in stick form. Liquid or powder astringent must be used.

6. Permanent wave rods shall be rinsed after each use. End papers shall not be reused and shall be destroyed after each use.

7. Soiled implements must be removed from the tops of work stations immediately after use;

8. Clean spatulas, other clean tools, or clean disposable gloves shall be used to remove bulk substances from containers;

9. Powder puffs, lip color, cheek color, sponges, or styptic pencils that cannot be sanitized or sterilized are prohibited from being used on more than one client;

10. Lotions, ointments, creams, and powders shall be kept in closed containers. A clean spatula shall be used to remove creams or ointments from jars. Sterile cotton shall

Emergency Regulations

be used to apply creams, lotions and powders. Cosmetic containers shall be recovered after each use;

11. For nail care, a sanitary container shall be provided to each client. Emery boards shall be discarded after use on each individual client;

12. All sharp tools, implements, and heat producing appliances shall be safely stored;

13. Pre-sanitized tools and implements, linens and equipment shall be stored for use in a sanitary enclosed cabinet or covered receptacle;

14. Soiled towels, linens and implements shall be deposited in a container made of cleanable materials and separate from those that are clean or pre-sanitized;

15. No substance other than a sterile styptic powder or sterile liquid astringent approved for homeostasis and applied with a sterile single-use applicator shall be used to check bleeding; and

16. Any disposable material making contact with blood or other body fluid shall be disposed of in a sealed plastic bag and removed from the shop, salon, school or facility in accordance with the guidelines of the Department of Health.

F. Chemical storage and emergency information:

1. Shops, salons, schools and facilities shall have in the immediate working area a binder with all Material Safety Data Sheets (MSDS) provided by manufacturers for any chemical products used;

2. Shop, salons, schools and facilities shall have a blood spill clean-up kit in the work area;

3. Flammable chemicals shall be stored in a nonflammable storage cabinet or a properly ventilated room; and

4. Chemicals that could interact in a hazardous manner (oxidizers, catalysts and solvents) shall be separated in storage.

G. Client health guidelines:

1. All employees providing client services shall cleanse their hands with an antibacterial product prior to providing services to each client. Licensees shall require that clients for nail care services shall cleanse their hands immediately prior to the requested nail care service;

2. An artificial nail shall only be applied to a healthy natural nail;

3. A nail drill or motorized instrument shall be used only on the free edge of the nail;

4. No shop, salon, school or facility providing cosmetology or nail care services shall have on the premises cosmetic products containing hazardous substances that have been banned by the U.S. Food and Drug Administration (FDA) for use in cosmetic products.

5. No product shall be used in a manner that is disapproved by the FDA; and

6. All regulated services must be performed in a facility that is in compliance with current local building and zoning codes.

H. In addition to any requirements set forth in this section, all licensees and temporary permit holders shall adhere to regulations and guidelines established by the Virginia Department of Health and the Occupational Safety and Health Compliance Division of the Virginia Department of Labor and Industry.

I. All shops, salons, schools and facilities shall immediately report the results of any inspection of the shop, salon, or school by the Virginia Department of Health as required by § 54.1-705 of the Code of Virginia.

J. All shops, salons, schools and facilities shall maintain a self-inspection form on file to be updated on an annual basis, and kept for five years, so that it may be requested and reviewed by the board at its discretion.

18 VAC 41-20-280. Grounds for license revocation or suspension; denial of application, renewal or reinstatement; or imposition of a monetary penalty.

A. The board may, in considering the totality of the circumstances, fine any licensee, certificate holder, or permit holder, and to suspend or revoke or refuse to renew or reinstate any license, certificate, or permit, or deny any application issued under the provisions of Chapter 7 (§ 54.1-700 et seq.) of Title 54.1 of the Code of Virginia and the regulations of the board if the board finds that:

1. The licensee, certificate holder, permit holder or applicant is incompetent, or negligent in practice, or incapable mentally or physically, as those terms are generally understood in the profession, to practice as a barber, cosmetologist, or nail technician; or

2. The licensee, certificate holder, permit holder or applicant is convicted of fraud or deceit in the practice or teaching of barbering, cosmetology, or nail care; or

3. The licensee, certificate holder, permit holder or applicant obtained, renewed or reinstated a license, certificate, or permit by false or fraudulent representation; or

4. The licensee, certificate holder, permit holder or applicant violates or induces others to violate, or cooperates with others in violating, any of the provisions of these regulations or Chapter 7 (§ 54.1-700 et seq.) of Title 54.1 of the Code of Virginia or any local ordinance or regulation governing standards of health and sanitation of the establishment in which any barber, cosmetologist, or nail technician may practice or offer to practice; or

5. The licensee, certificate holder, permit holder or applicant fails to produce, upon request or demand of the board or any of its agents, any document, book, record, or copy thereof in a licensee's or owner's possession or maintained in accordance with these regulations; or

6. A licensee, certificate holder, or permit holder fails to notify the board of a change of name or address in writing within 30 days of the change for each and every license, certificate, or permit. The board shall not be responsible for

the licensee's, certificate holder's, or permit holder's failure to receive notices, communications and correspondence caused by the licensee's, certificate holder's, or permit holder's failure to promptly notify the board in writing of any change of name or address or for any other reason beyond the control of the board; or

7. The licensee, certificate holder, permit holder or applicant publishes or causes to be published any advertisement that is false, deceptive, or misleading; or

8. The licensee, certificate holder, permit holder or applicant fails to notify the board in writing within 30 days of the suspension, revocation, or surrender of a license, certificate, or permit in connection with a disciplinary action in any other jurisdiction or of any license, certificate, or permit which has been the subject of disciplinary action in any other jurisdiction; or

9. In accordance with § 54.1-204 of the Code of Virginia, the licensee, certificate holder, permit holder or applicant has been convicted in any jurisdiction of a misdemeanor or felony which directly relates to the profession of barbering, cosmetology, or nail care. The board shall have the authority to determine, based upon all the information available, including the applicant's record of prior convictions, if the applicant is unfit or unsuited to engage in the profession of barbering, cosmetology, or nail care. The board will decide each case by taking into account the totality of the circumstances. Any plea of nolo contendere shall be considered a conviction for the purposes of this section. The applicant shall provide a certified copy of a final order, decree or case decision by a court or regulatory agency with the lawful authority to issue such order, decree or case decision, and such copy shall be admissible as prima facie evidence of such conviction. This record shall be forwarded by the applicant to the board within 10 days after all appeal rights have expired.

B. The board may, in considering the totality of the circumstances, revoke, suspend or refuse to renew or reinstate the license of any school or impose a fine as permitted by law, or both, if the board finds that:

1. An instructor of the approved school fails to teach the curriculum as provided for in these regulations; or

2. The owner or director of the approved school permits or allows a person to teach in the school without a current instructor certificate; or

3. The instructor, owner or director is guilty of fraud or deceit in the teaching of barbering, cosmetology or nail care.

C. The board may, in considering the totality of the circumstances, revoke, suspend or refuse to renew or reinstate the license of any barbershop, cosmetology or nail salon or impose a fine as permitted by law, or both, if the board finds that:

1. The owner or operator of the shop or salon fails to comply with the sanitary requirements of barbershops or cosmetology or nail salons provided for in these regulations or in any local ordinances; or

2. The owner or operator allows a person who has not obtained a license or a temporary permit to practice as a barber, cosmetologist, or nail technician unless the person is duly enrolled as a registered apprentice.

D. The board may, in considering the totality of the circumstances, revoke, suspend or refuse to renew or reinstate the license of any licensee or impose a fine as permitted by law, or both, if the board finds that the licensee fails to take sufficient measures to prevent transmission of communicable or infectious diseases or fails to comply with any local, state or federal law or regulation governing the standards of health and sanitation for the practices of barbering, cosmetology, or nail care.

NOTICE: The forms used in administering 18 VAC 41-20, Barbering and Cosmetology Regulations, are not being published due to the large number; however, the name of each form is listed below. The forms are available for public inspection at the Board for Barbers and Cosmetology, 3600 W. Broad Street, Richmond, Virginia, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

FORMS

Cosmetology and Nail Technician Examination Application, 12EX/EXAM APP (eff. 7/9/02).

Cosmetology and Nail Technician License Application, 12LIC/COSMO LIC APP (eff. 7/9/02).

Barber Examination Application, 13EX/BAR EXAM APP (eff. 7/9/02).

Barber License Application, 13LIC/BAR LIC APP (eff. 7/9/02).

Endorsement Application, 1213END/END APP (eff. 7/2/02).

Reinstatement Application, 1213REI/REINSTATE APP (eff. 7/2/02).

Salon or Shop License Application, 1213SLSH/SALON OR SHOP LIC APP (eff. 7/2/02).

Cosmetology School License Application, 12SCHL/COSMO SCHOOL LIC APP (eff. 7/2/02).

Barber School License Application, 13SCHL/BAR SCHL LIC APP (eff. 7/2/02).

Cosmetology Training and Experience Verification Form, 12ETREXP/COSMO TRAIN & EXP FORM (eff. 7/1/00).

Cosmetology Temporary Permit Application, 12ETP/COSMO TEMP PERMIT APP (eff. 7/9/02).

/s/ Mark R. Warner
Governor

Date: July 2, 2002

VA.R. Doc. No. R02-238; Filed July 2, 2002, 11:59 a.m.

GOVERNOR

EXECUTIVE ORDER NUMBER 15 (2002)

GOVERNOR'S ADVISORY COMMISSION FOR VETERANS' AFFAIRS

By virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and under the laws of the Commonwealth, including but not limited to, Chapter 1 of Title 2.2 and Section 2.2-2100 of the Code of Virginia, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby establish the Governor's Advisory Commission for Veteran's Affairs.

Importance of Veterans' Affairs

We are blessed to live in the greatest country in the world with many personal freedoms and much opportunity and promise. These premier benefits have not come easily or freely. Our armed forces have fervently and gallantly protected our nation's principles and freedoms throughout our history. Their service to our country - past and present - underscores dramatically the fact that freedom needs dedicated men and women to defend it and to sustain it.

Virginia has a strong and abiding relationship with the nation's military. Every service branch has a significant presence in the Commonwealth and, of course, Virginia is home to the Pentagon. Many of the active duty personnel who come to Virginia fall in love with our magnificent commonwealth and decide to call it home. As a result, Virginia has a substantial veteran population that richly contributes to our quality of life.

The Commonwealth has many agencies and programs that serve the veteran community, including:

- . Benefit services and veterans cemeteries through the Virginia Department of Veterans' Affairs,
- . Job opportunity programs at the Department of Human Resource Management,
- . Nursing home and assisted living services at the Virginia Veterans Care Center in Roanoke, and
- . The Virginia War Memorial Foundation in Richmond.

The Commonwealth is in the process of expanding these services. A second veterans cemetery will break ground this fall in Suffolk. Virginia has also committed to build a second Veterans Care Center next to the McGuire VA Hospital in Richmond. The General Assembly approved Virginia's share of the construction funds and I recently signed the legislation into law. We are awaiting final approval of the federal matching funds for the second center.

The Governor's Advisory Commission

Virginia's veteran population is growing and its needs are changing. As the Commonwealth expands its veteran services, we must prepare for and adapt to these changing community conditions. Therefore, I hereby create the Governor's Advisory Commission for Veterans' Affairs (hereinafter referred to as "the Commission"), which shall formulate recommendations to enhance the effectiveness of Virginia's veteran programs within available resources for both current and future needs. The Commission shall be classified

as a gubernatorial advisory board in accordance with Section 2.2-2100 of the Code of Virginia.

The Commission shall have the following responsibilities:

- . Review the agencies, programs, and boards currently serving the veteran community in the Commonwealth, including various fundraising activities.
- . Assess the current and future projected needs of Virginia's veteran community.
- . Identify current and potential future funding sources for veteran services.
- . Recommend the structure, strategies, and systems for the most effective delivery of services to Virginia's veteran community.

The Commission shall present its report to the Governor no later than November 1, 2002.

The Commission shall be appointed by the Governor and serve at his pleasure. The Governor shall designate a chairman of the Commission. Members of the Commission shall serve without compensation, but they may receive reimbursement for expenses incurred in the discharge of their official duties upon approval of the Chief of Staff.

Staff support necessary for the work of the Commission shall be provided by the Office of the Secretary of Administration and such executive branch agencies as the Governor may designate. An estimated 800 hours of staff time shall be needed to support the work of the Commission.

Funding necessary to support the Commission and its staff shall be provided from federal funds, private contributions, and state funds appropriated for the same purposes as the Commission, as authorized by Section 2.2-135 of the Code of Virginia. Direct expenditures to support the Commission's work are estimated at \$7,000.

This Executive Order shall be effective immediately upon its signing and shall remain in full force and effect until June 24, 2003, unless amended or rescinded by further Executive Order.

Given under my hand and the Seal of the Commonwealth of Virginia, this 24th day of June 2002.

/s/ Mark R. Warner
Governor

VA.R. Doc. No. R02-233; Filed July 1, 2002, 1:28 p.m.

EXECUTIVE ORDER NUMBER 16 (2002)

DESIGNATION OF EXECUTIVE BRANCH OFFICERS AND EMPLOYEES REQUIRED TO FILE FINANCIAL DISCLOSURE STATEMENTS

The State and Local Government Conflict of Interest Act reflects the Commonwealth's continuing commitment that the judgment of public officers and employees will not be compromised or affected by inappropriate conflicts between

the personal economic interests and the official duties of Virginia's public servants.

In furtherance of the purposes of the State and Local Government Conflict of Interests Act, Section 2.2-3100 et seq. of the Code of Virginia (hereinafter, "the Act"), and by virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and under the laws of the Commonwealth, including but not limited to Sections 2.2-106, 2.2-110, and 2.2-3114 the Code of Virginia, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby establish the following policies and procedures to implement the Act in Executive Branch agencies, institutions, boards, and commissions:

1. All nonsalaried citizen members of Executive Branch advisory boards, commissions, councils and authorities are hereby designated to file the financial disclosure form included in Section 2.2-3118.

2. In order that all appropriate Executive Branch officers and employees may be designated to file the statement of economic interests set out in the Act, each of the Governor's Secretaries shall submit to me by October 1, 2002, a report identifying:

- (a) Each position within the Secretary's jurisdiction, whether classified or non-classified, which involves substantive responsibility for inspection, investigation, licensure, or other regulation of the activities of private firms, organizations, or professions; and

- (b) Each position within the Secretary's jurisdiction, whether classified or non-classified, which involves substantive responsibility for procurement, audit, investment, or other activities that could be subject to abuse or improper influence as a result of the personal economic interests of the officeholder or employee.

3. Subject to my approval, the Secretary of the Commonwealth shall prepare from the reports submitted pursuant to Paragraph 2 of this order a comprehensive list of employees who shall be required to file the statement of economic interests set out in the Act. The Secretary of the Commonwealth, with the assistance and cooperation of the Governor's Secretaries, shall maintain this list, shall review and revise it annually to reflect the creation and abolition of offices and positions, and shall annually inform each employee listed of his or her obligation to file the statement of economic interests in accordance with Section 2.2-3114 of the Code of Virginia.

4. The head of each agency, institution, board, and commission within the Executive Branch shall assist the Governor's Secretaries and the Secretary of the Commonwealth in compiling the information required by this Executive Order, in ensuring that appropriate additions to and deletions from the list of those designated to file the statement of economic interests are recommended in a timely fashion, and in ensuring that designated officers and employees file their statements of economic interests in accordance with Section 2.2-3114 of the Code of Virginia.

5. The head of each agency, institution, board, and commission within the Executive Branch shall be

responsible for acquiring a statement of economic interests from each new employee so long as the employee is hired for a position previously designated.

6. The head of each agency, institution, board, and commission within the Executive Branch shall communicate to the officers, employees, and members within his or her jurisdiction the importance and necessity of maintaining the highest standards of conduct, and avoiding even the appearance of impropriety arising out of personal economic interests and the conduct of the business of the Commonwealth.

This Executive Order rescinds Executive Order Eighteen (98), issued by Governor James Gilmore, III.

This Executive Order shall be effective upon its signing and shall remain in full force and effect until June 30, 2003, unless sooner amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 26th day of June 2002.

/s/ Mark R. Warner
Governor

VA.R. Doc. No. R02-239; Filed July 3, 2002, 10:04 a.m.

EXECUTIVE ORDER NUMBER 17 (2002)

GOVERNOR'S ADVISORY BOARD OF ECONOMISTS

By virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and under the laws of the Commonwealth, including but not limited to Chapter 1 of Title 2.2 and Section 2.2-1503 of the Code of Virginia, and subject always to my continuing and ultimate authority and responsibility to act in such matters, I hereby continue the Governor's Advisory Board of Economists (hereinafter known as "the Board.")

The general responsibility of the Board shall be to review and evaluate revenue estimates to be used in the formulation of the Governor's Budget and amendments thereto. The Board shall review and make recommendations regarding:

1. Economic assumptions and technical econometric methodology used to prepare the Governor's annual six-year estimates of anticipated general and nongeneral fund revenues;
2. Assumptions and methodologies used to project general fund and nongeneral fund revenues for the current and future biennia;
3. Current and projected economic outlook for the Commonwealth and the nation; and
4. Other related issues, at the request of the Governor.

The Board shall be comprised of members appointed by the Governor and shall serve at his pleasure. The Secretary of Finance shall serve as chairman of the Board. Other members of the Board shall be economists selected from both the public and private sectors.

Governor

Members of the Commission shall serve without compensation, but may receive reimbursement for expenses incurred in the discharge of their official duties upon approval by the Governor's Chief of Staff.

This Executive Order rescinds Executive Order Number Eleven (98), issued by Governor James S. Gilmore III.

This Executive Order shall be effective upon its signing and shall remain in full force and effect until June 30, 2006, unless sooner amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 26th day of June 2002.

/s/ Mark R. Warner
Governor

VA.R. Doc. No. R02-240; Filed July 3, 2002, 10:04 a.m.

EXECUTIVE ORDER NUMBER 18 (2002)

DESIGNATION OF HOUSING CREDIT AGENCY UNDER THE FEDERAL TAX REFORM ACT OF 1986

By virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and under the laws of the Commonwealth, including but not limited to Chapter 1 of Title 2.2 of the Code of Virginia, and under 26 CFR 1.42-1T(c)(1), and subject always to my continuing and ultimate authority and responsibility to act in such matters, I hereby direct that all of the State Housing Credit Ceiling for the Commonwealth, as determined in accordance with the Tax Reform Act of 1986, shall continue to be allocated for the period of July 1, 2002, through June 30, 2006, to the Virginia Housing Development Authority (VHDA), as the Housing Credit Agency for the Commonwealth.

The Tax Reform Act of 1986 ("the Act"), adopted by the United States Congress and signed by the President, authorizes tax credits that may be claimed by owners of residential rental projects that provide housing for low-income residents. The Act imposes a ceiling, called the "State Housing Credit Ceiling," on the aggregate amount of tax credits that may be allocated during each calendar year to qualified housing projects within each state. The Act also provides for an allocation of the State Housing Credit Ceiling to the "Housing Credit Agency" of each state, but permits each state's governor to establish a different formula for allocating the State Housing Credit Ceiling.

As the Commonwealth's Housing Credit Agency for the low-income housing tax credits program authorized by the Act, VHDA is hereby directed to consult with the Department of Housing and Community Development, housing development industry and nonprofit providers, municipal and county government officials, housing authorities, and other interested parties.

This Executive Order rescinds Executive Order Fourteen (98), issued by Governor James S. Gilmore III.

This Executive Order shall be effective upon signing, and shall remain in full force and effect until June 30, 2006, unless amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 26th day of June 2002.

/s/ Mark R. Warner
Governor

VA.R. Doc. No. R02-241; Filed July 3, 2002, 10:04 a.m.

EXECUTIVE ORDER NUMBER 19 (2002)

CONTINUING CERTAIN EMERGENCY DECLARATIONS DUE TO DISASTERS IN THE COMMONWEALTH

By virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and under the laws of the Commonwealth, including but not limited to Section 44-146.17 of the Code of Virginia, and subject always to my continuing and ultimate authority and responsibility to act in such matters, and to reserve powers, I hereby continue the states of emergency declared in the following Executive Orders for the purposes of continuing disaster recovery operations:

Executive Order Number 13 (2002), Declaration of a State of Emergency Due to Severe Weather Damage Across the Commonwealth.

Executive Order Number 11 (2002), Declaration of a State of Emergency Due to a Tire Fire in Roanoke County, Virginia.

Executive Order Number 10 (2002), Declaration of a State of Emergency For The Commonwealth of Virginia Due to Significant Rainfall and Flooding throughout Southwest Virginia.

Executive Order Number Eighty-Seven (2001), Declaration of a State of Emergency Arising From Drought and Forest Fires or the Potential Thereof throughout the Commonwealth of Virginia.

Executive Order Number Eighty-Three (2001), Declaration of a State of Emergency due to Terrorist Attack on the Pentagon in Arlington County, Virginia.

Executive Order Number Eighty-Two (2001), Declaration of a State of Emergency for Certain Localities in the Commonwealth of Virginia due to Significant Rains and Flooding in Southwest Virginia.

Executive Order Number Seventy-Seven (2001), Declaration of a State of Emergency for Certain Localities in the Commonwealth of Virginia due to Significant Rains and Flooding;

Executive Order Number Sixty-Three (2000), Declaration of a state of emergency for the entire Commonwealth due to winter storms, as continued in Executive Order Sixty-Nine (2000).

Executive Order Number Sixty (1999), Declaration of a state of emergency for the entire Commonwealth due to Hurricane Floyd, as continued in Executive Order Sixty-Nine (2000).

Executive Order Number Fifty-Nine (1999), Declaration of a state of emergency throughout portions of the Commonwealth arising from Tropical Storm Dennis as continued in Executive Order Sixty-Nine (2000).

Executive Order Number Twenty-Seven (1998), Declaration of a State of Emergency Throughout the Commonwealth of Virginia Arising From Hurricane Bonnie During the Period of August 25 through September 16, 1998, as continued in Executive Orders Forty-Nine (1999), and Sixty-Nine (2000).

Executive Order Number Sixty-Six (1996), Declaration of a State of Emergency Throughout the Commonwealth of Virginia Arising From Hurricane Fran Which Resulted in Widespread Devastation and Property Losses Due to Heavy Rains, Flooding, and High Winds During the Period of September 5 through September 7, 1996, as continued in Executive Orders Seventy-Seven (1997), Sixteen (1998), Forty-Nine (1999), and Sixty-Nine (2000).

Executive Order Number Sixty (1996), Declaration of a State of Emergency Throughout the Commonwealth Arising From Massive Snow Storm With Blizzard Conditions, During the Period January 6 Through January 10, 1996, Which Resulted in Melted Snow, Associated Run-Off, and Severe Flooding in Portions of the Commonwealth During the Period January 18-19, 1996, as continued in Executive Orders Sixty-eight (1996), Seventy-Seven (1997), Sixteen (1998), Forty-Nine (1999); and Sixty-Nine (2000).

This Executive Order shall be effective upon its signing, and shall remain in full force and effect until June 30, 2004, unless sooner amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia, this 26th day of June 2002.

/s/ Mark R. Warner
Governor

VA.R. Doc. No. R02-242; Filed July 3, 2002, 10:04 a.m.

EXECUTIVE ORDER NUMBER 20 (2002)

PURCHASE, ASSIGNMENT, AND USE OF STATE-OWNED VEHICLES

By virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and under the laws of the Commonwealth, including but not limited to Sections 2.2-120 and 2.2-121, and Chapter 11 of Title 2.2 of the Code of Virginia, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby establish policies and procedures for the purchase, assignment, and use of state-owned motor vehicles.

Preamble

The people of Virginia have a right to expect use of state-owned vehicles to be strictly limited to the necessary performance of official business. Motor vehicles are not to be purchased by agencies or permanently assigned to agencies from the "centralized fleet" (as defined in Chapter 11 of Title 2.2 of the Code of Virginia) for reasons of convenience or perquisite. The purchase, assignment, and use of such

vehicles are to be determined solely according to whether it will promote efficiency and economy in state government.

To eliminate unnecessary expense associated with excessive use of state-owned motor vehicles and to set an example of frugality, I am hereby establishing policies and procedures to govern the purchase, assignment, and use of state-owned passenger-type motor vehicles in the future.

Specific Directives

1. The head of each agency or institution of the Commonwealth shall limit authorization of commuting in state-owned vehicles to those employees whose job travel requirements make commuting the only cost-effective or practical alternative. The Director of the Department of General Services shall ensure that regulations applicable to commuting are uniformly applied and meet the criteria stated herein. For the purpose of this Executive Order and as used in Section 2.2-1179 of the Code of Virginia, "commuting" shall mean driving between home and office where such driving is not connected to a departure for, or return from, a trip on official state business.

2. Notwithstanding the foregoing paragraph, no appointee serving at the pleasure of the Governor shall use a state-owned vehicle for commuting. Such appointees may use a state-owned vehicle for driving between home and office only when connected to a departure for, or return from, a trip on official state business. The limitation of this paragraph shall not apply to the Secretary of Public Safety, the Superintendent of State Police, nor to those appointees who, in the judgment of the Secretary of Public Safety, need access to state-owned vehicles for the purpose of responding to job-related emergencies from their homes.

3. The head of each agency or institution of the Commonwealth shall be directly responsible for ensuring compliance with this Executive Order and all applicable statutes and regulations governing the use of state-owned vehicles, including the requirement that such vehicles be used strictly for official business only. Each agency head shall ensure that due consideration is given to the economy of reimbursing employees for mileage in their personal vehicles in lieu of use of state-owned vehicles, and shall assist the Director of the Department of General Services in eliminating the use of state-owned vehicles where such use does not advance the goals of efficient and economical operation of state government.

4. The criteria governing the assignment of centralized fleet vehicles (see Rules and Regulations Governing the Use, Operation and Maintenance of State-Owned Fleet Vehicles, published by the Department of General Services) shall apply to all passenger-type vehicles owned by the Commonwealth, subject to such exceptions as the Director of the Department of General Services shall make. The authority of the Director of the Department of General Services under Section 2.2-1180 of the Code of Virginia to promulgate regulations governing the centralized fleet shall extend to all passenger-type vehicles owned by the Commonwealth.

5. The Commissioner of Motor Vehicles shall assess the use of blind tags on state-owned vehicles, and shall restrict

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such use to law enforcement vehicles and to such other vehicles as he determines are regularly used in the course of official business, the effective performance of which makes blind tags essential.

This Executive Order rescinds Executive Order Number Seventeen (98), issued by Governor James S. Gilmore, III.

This Executive Order shall be effective upon its signing and shall remain in full force and effect until June 30, 2006, unless sooner amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 26th day of June 2002.

/s/ Mark R. Warner
Governor

VA.R. Doc. No. R02-243; Filed July 3, 2002, 10:04 a.m.

EXECUTIVE ORDER NUMBER 21 (2002)

DEVELOPMENT AND REVIEW OF REGULATIONS PROPOSED BY STATE AGENCIES

By virtue of the authority vested in me as Governor under Article V of the Constitution of the Commonwealth of Virginia and under the laws of the Commonwealth, including but not limited to Sections 2.2-4013 and 2.2-4017 of the Code of Virginia, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby establish policies and procedures for review of all new, revised, and existing regulations proposed by state agencies, which shall include for purposes of this executive order all agencies, boards, commissions and other entities of the Commonwealth within the Executive Branch which issue regulations. Nothing in this Executive Order shall be construed to limit my authority under Section 2.2-4013 to require an additional 30-day final adoption period, or to exercise any other rights and prerogatives existing under Virginia law.

General Policy

The Executive Branch agencies of the Commonwealth must consider, review, and promulgate many regulations each year. This Executive Order sets out procedures and requirements to ensure the efficiency and quality of Virginia's regulatory process.

All state employees who draft, provide policy analysis for, or review regulations shall carefully consider and apply the principles outlined below during the regulatory development and review process. Where applicable and to the extent permitted by law, it shall be the policy of the Commonwealth that:

A. Unless otherwise mandated by law, only regulations that are necessary to interpret the law or to protect the public health, safety, or welfare shall be promulgated.

B. Agencies shall identify the nature and significance of the problem a regulation is intended to address, including, where applicable, the failure of private markets and institutions to adequately address the problem.

C. Agencies shall identify and assess available alternatives for achieving the goals of a regulation, including where feasible and consistent with public health, safety, and welfare:

a. The use of information disclosure requirements, rather than regulatory mandates, so that the public can make more informed choices;

b. The use of performance standards in place of mandating specific techniques or behavior; and

c. The use of economic incentives to encourage the desired outcomes (such as user fees or marketable permits).

D. Regulatory development shall be based on the best reasonably available scientific, economic, and other information concerning the need for, and consequences of, the intended regulation. Where feasible, agencies shall specifically cite such information in support of regulatory proposals.

E. Regulations shall be designed to achieve their intended objective in the most cost-effective manner.

F. Regulations shall be clearly written and easily understandable by the individuals and entities affected.

G. All legal requirements related to public participation and all public participation guidelines shall be strictly followed to ensure that citizens have reasonable access and opportunity to present their comments and concerns. Agencies shall establish procedures that provide for a timely written response to all comments and the inclusion of suggested changes that would improve the quality of the regulation.

H. In addition to requirements set out in the Virginia Administrative Process Act, agencies shall post all rulemaking actions on the Virginia Regulatory Town Hall to ensure that the public is adequately informed of rulemaking activity.

I. Agencies, as well as reviewing entities, shall endeavor to perform their tasks in the regulatory process as expeditiously as the regulatory subject matter will allow and shall adhere to the time frames set out in this Executive Order.

J. Each agency head will be held accountable for ensuring that the policies and objectives specified in this Executive Order are put into effect. Agency heads shall ensure that information requested by the Department of Planning and Budget (DPB) or the Office of the Governor in connection with this Executive Order is provided on a timely basis.

Applicability

The review process in this Executive Order applies to rulemaking initiated by agencies of the Commonwealth of Virginia in accordance with Article 2 of the Administrative Process Act (APA) (Section 2.2-4006 et seq. of the Code of Virginia).

With the exception of the requirements governing the periodic review of existing regulations, the posting of meeting agenda

and minutes, and the posting of guidance documents, the requirements of this Executive Order shall not apply to regulations exempt from Article 2 of the APA. However, a Cabinet Secretary may request in writing that an agency comply with all or part of the requirements of this Executive Order for regulations exempt from Article 2 of the APA. Copies of any such request shall be forwarded to the Governor's Policy Office and DPB.

These procedures shall apply in addition to those already specified in the APA, the agencies' public participation guidelines, and the agencies' basic authorizing statutes.

Any failure to comply with the requirements set forth herein shall in no way affect the validity of a regulation, create any cause of action or provide standing for any person under Article 5 of the APA (Section 2.2-4025 et seq. of the Code of Virginia), or otherwise challenge the actions of a government entity responsible for adopting or reviewing regulations.

Regulatory Review Process

Regulations shall be subject to Executive Branch review as specified herein. For each stage of the regulatory development process, DPB shall develop an appropriate background form describing the regulatory action. Agencies shall use the form to inform the public about the substance and reasons for the rulemaking. All agency regulatory packages shall be submitted on the Virginia Regulatory Town Hall and shall include the completed form for that stage of the regulatory process and the text of the regulation where applicable.

As a general rule, agencies shall submit regulatory packages to the Registrar on the Virginia Regulatory Town Hall within 14 days of being authorized to do so. The Counselor to the Governor may grant exceptions to this requirement for good cause.

A. Notice of Intended Regulatory Action (NOIRA)

DPB shall review the submission of a Notice of Intended Regulatory Action to determine whether it complies with all requirements of this Executive Order and applicable statutes and whether the contemplated regulatory action comports with the policy of the Commonwealth as set forth herein. Within 14 days of receiving a complete NOIRA review package from the agency, the Director of DPB shall advise the appropriate Secretary and the Governor of DPB's determination.

The agency shall be authorized to submit the NOIRA to the Registrar for publication when at least one of the following conditions are met:

- a. The Governor approves the NOIRA for publication.
- b. Fourteen days have elapsed since DPB's determination and neither the Governor nor the Secretary has objected to the NOIRA.
- c. Fourteen days have elapsed and any objections issued by the Governor or the Secretary have been withdrawn.

If the Director of DPB advises the appropriate Secretary and the Governor that the NOIRA presents issues requiring further review, the NOIRA shall be forwarded to the

Secretary. The Secretary shall review the NOIRA within seven days and forward a recommendation to the Governor. The Chief of Staff is hereby authorized to approve NOIRAs on behalf of the Governor.

B. Proposed Regulation

Following the initial public comment period required by Section 2.2-4007.B of the Code of Virginia and taking into account the comments received, the agency shall prepare a regulatory review package. Agencies should complete the proposed regulation after the close of the NOIRA comment period as expeditiously as the subject matter will allow. However, the agency must submit the package to DPB within 180 days following the close of the NOIRA comment period, unless a waiver is granted by the Counselor to the Governor.

A proposed regulation shall not address new issues that were not disclosed to the public when the NOIRA was published. If an agency can demonstrate a compelling reason to include new issues, an exception to this policy may be granted by the Counselor to the Governor during the proposed regulation review process.

In addition to the information required on the regulation background form, the agency shall also include in the regulatory package a memorandum from the Office of the Attorney General certifying that the agency has legal authority to promulgate the regulation being proposed.

DPB shall review the proposed regulation package to determine whether it complies with all requirements of this Executive Order and applicable statutes and whether the contemplated regulatory action comports with the policy of the Commonwealth as set forth herein. Within 45 days of receiving a complete proposed regulation package from the agency, the Director of DPB shall advise the Secretary of DPB's determination. The Secretary shall review the proposed regulation package within 14 days and forward a recommendation to the Governor. The Chief of Staff is hereby authorized to approve proposed regulations on behalf of the Governor. Within 14 days of receiving notification that the Governor has approved the proposed regulation package, the agency shall submit the proposed regulation package to the Registrar for publication, unless an exception to this requirement is granted for good cause by the Counselor to the Governor.

C. Final Regulation

After the agency has reviewed the comments received during the public comment period following publication of the proposed regulation and has revised the proposed regulation, as the agency deems necessary and proper, the agency shall prepare the final regulation package for submission to the Department of Planning and Budget.

The agency shall submit the final regulation to DPB after the close of the proposed regulation comment period as expeditiously as the subject matter will allow. However, in no case should the submission of the final regulation to DPB take place more than 150 days from the close of the public comment period, unless a waiver has been granted by the Counselor to the Governor.

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DPB shall review the final regulation package to determine whether it complies with all requirements of this Executive Order and applicable statutes and whether the regulatory action comports with the policy of the Commonwealth as set forth herein. In particular, DPB shall assess the effect of any substantive changes made since the publication of the proposed regulation and the responsiveness of the agency to public comment. Within 14 days of receiving a complete final regulation package from the agency, the Director of DPB shall advise the Secretary and the Governor of DPB's determination.

After DPB's review, the final regulation shall be forwarded to the appropriate Secretary and the Governor. The Secretary shall make a recommendation to the Governor within seven days. The agency shall be authorized to submit the final regulation to the Registrar for publication when the Governor approves the final regulatory package for publication.

D. Emergency Regulation

In addition to the information required on the background form, the agency shall also include in the regulatory package for any emergency regulation a memorandum from the Office of the Attorney General certifying that the agency has legal authority to promulgate the emergency regulation.

DPB shall review the emergency regulation package to determine whether it complies with all requirements of this Executive Order and applicable statutes and whether the contemplated regulatory action comports with the policy of the Commonwealth as set forth herein. Within 14 days of receiving a complete emergency regulation package from the agency, the Director of DPB shall advise the Secretary of DPB's determination. The Secretary shall review the emergency regulation package within 14 days and forward a recommendation to the Governor. Upon receiving notification that the Governor has approved the emergency regulation package, the agency may then submit the emergency regulation package to the Registrar for publication.

Periodic Review of Existing Regulations

Each existing regulation in the state shall be reviewed at least once every four years by the promulgating agency unless specifically exempted from periodic review by the Governor. The review shall ensure that each regulation complies with the principles set out in this Executive Order. In addition, each periodic review shall include an examination by the Office of the Attorney General to ensure statutory authority for the regulation. The periodic review of a regulation shall be reported on a form established by DPB. Such form shall minimally provide an opportunity for the agency to demonstrate the regulation's compliance with the policies set out in this Executive Order.

Prior to the commencement date of the periodic review for a regulation, an agency shall post on the Town Hall a notice of the periodic review. The agency shall provide for a minimum of 21 days of public comment commencing on the posted date for the review. No later than 90 days after the close of the public comment period, the agency shall post a completed periodic review report on the Virginia Regulatory Town Hall.

When a regulation has undergone a comprehensive review as part of a regulatory action and when the agency has solicited public comment on the regulation, a periodic review shall not be required until four years after the effective date of this regulatory action.

The Counselor to the Governor may request a periodic review of a regulation at any time deemed appropriate. Such a request may outline specific areas to be addressed in the review. In the case of such a request, the agency shall follow the procedures for periodic review as established herein or such other procedures as may be stipulated by the Counselor to the Governor.

Petitions for Rulemaking

Agencies shall post petitions for rulemaking and written decisions to grant or deny the petitioner's request on the Virginia Regulatory Town Hall in accordance with the time frames established in Section 2.2-4007 of the Code of Virginia.

Waivers from Process Deadlines

The Counselor to the Governor may waive the deadlines an agency must meet when submitting proposed and final regulatory packages. A waiver shall only be granted when an agency has demonstrated a compelling need for extending the deadlines set out herein. An agency shall submit a waiver request as soon as possible prior to the expiration of a deadline. Such requests shall be submitted on forms prepared by DPB.

Electronic Availability of Meeting Agenda and Minutes

Executive Branch agencies that promulgate regulations and keep minutes of regulatory meetings shall post such minutes of their public meetings on the Virginia Regulatory Town Hall in accordance with the time frames established in Section 2.2-3707.1 of the Code of Virginia. This requirement shall apply to all meetings scheduled on or after July 1, 2002. In addition, wherever feasible, agencies shall post the agenda for a public meeting on the Virginia Regulatory Town Hall at least seven days prior to the date of the meeting.

Electronic Availability of Guidance Documents

To the extent feasible, agencies shall make all guidance documents, as defined by Section 2.2-4001 of the Code of Virginia, available to the public on the Virginia Regulatory Town Hall no later than July 1, 2003. Any guidance document currently available in electronic format shall be posted on the Virginia Regulatory Town Hall by December 31, 2002. Any changes to a guidance document shall be reflected on the Virginia Regulatory Town Hall within 10 days of the change. The Counselor to the Governor may waive these requirements or extend these deadlines in cases where agencies have demonstrated a compelling need. An agency shall submit a waiver request as soon as possible prior to the expiration of the deadline. Such requests shall be submitted on forms prepared by DPB.

This Executive Order rescinds Executive Order Number Twenty-Four (98) and Executive Order Number Twenty-Five (98) issued by Governor James S. Gilmore, III. This Executive Order shall become effective upon its signing and shall remain

in full force and effect until June 30, 2006, unless amended or rescinded by further Executive Order.

Given under my hand and under the Seal of the Commonwealth of Virginia on this 26th day of June 2002.

/s/ Mark R. Warner
Governor

VA.R. Doc. No. R02-244; Filed July 3, 2002, 10:04 a.m.

EXECUTIVE ORDER NUMBER 22 (2002)

ASSIGNING RESPONSIBILITY FOR PARTICIPATION IN THE FEDERAL "SUPERFUND" PROGRAM

By virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and under the laws of the Commonwealth, including but not limited to Section 2.2-104 of the Code of Virginia, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby assign responsibilities for the administration and coordination of state response actions under the Federal Comprehensive Environmental Response and Liability Act of 1980 ("Superfund" Program), as amended, to the following executive branch agencies and officials:

1. The Secretary of Public Safety or the Secretary's designee shall be responsible for entering into cooperative agreements with the United States Environmental Protection Agency (EPA) regarding the immediate response to the release of, or substantial threat of a release of, hazardous substances that threaten the public health, welfare, and environment.
2. The State Coordinator of the Department of Emergency Management, under the direction of the Secretary of Public Safety, shall be responsible for developing the Virginia Oil and Hazardous Materials Emergency Response Plan and other requisite documents.
3. The Director of the Department of Environmental Quality, under the direction of the Secretary of Natural Resources, shall be responsible for entering into cooperative agreements and other agreements and contracts with EPA, the United States Department of Defense, and other federal agencies for the Superfund Site Assessment, Removal and Remedial Programs. Such agreements and contracts shall provide for the investigation and assessment of releases of hazardous substances into the environment, and for remedial actions providing permanent resolution of the release of hazardous substances into the environment, except removals that involve immediate response to the release of hazardous substances that threaten the public health, welfare, and environment. Before signing any cooperative agreement, the Director of the Department of Environmental Quality shall assure the adherence to any applicable requirements of the General Provisions of the current Appropriation Act.
4. The Director of the Department of Environmental Quality is authorized to sign, on behalf of the Commonwealth, the hazardous waste capacity assurance plan mandated by the Superfund Amendments and Reauthorization Act and any amendments thereto.

5. The Secretary of Natural Resources shall act on behalf of the public as trustee for natural resources. The Secretary of Natural Resources shall assess damage to natural resources in the case of injury to, destruction of, or loss of natural resources. Funds recovered by the Secretary of Natural Resources as trustee shall be available only to restore, rehabilitate, or acquire the equivalent of such natural resources.

6. The Secretary of Natural Resources and the Secretary of Public Safety are authorized to develop memoranda of understanding which set forth the working relationships between and among state agencies with responsibilities under the Executive Order and applicable statutes.

This Executive Order rescinds Executive Order Number Twelve (98), issued by Governor James S. Gilmore III. This Executive Order shall be effective upon its signing and shall remain in full force and effect until June 30, 2006, unless sooner amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 26th day of June 2002.

/s/ Mark R. Warner
Governor

VA.R. Doc. No. R02-245; Filed July 3, 2002, 10:04 a.m.

EXECUTIVE ORDER NUMBER 23 (2002)

CONTINUATION OF THE VIRGINIA COASTAL RESOURCES MANAGEMENT PROGRAM

By virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and under the laws of the Commonwealth, including but not limited to Sections 2.2-103 and 2.2-104 of the Code of Virginia, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby continue the Virginia Coastal Resources Management Program (hereinafter known as "the Program").

The Program's mission is to create more vital and sustainable coastal communities and ecosystems. I direct all state agencies to carry out their legally established duties consistent with this Program and in a manner that promotes coordination among all government agencies. The Department of Environmental Quality shall serve as the lead agency for this networked program and shall be responsible for allocation and assignment of all federal funds received for the Virginia Coastal Resources Management Program Implementation Grant.

POLICY GOALS

State agencies having responsibility for the Commonwealth's coastal resources shall promote the Coastal Resources Management Program consistent with the following goals:

Coastal Resource Protection

Goal 1. To protect and restore coastal resources, habitats, and species of the Commonwealth. These include, but are not limited to, wetlands, subaqueous lands and vegetation, sand dune systems, barrier islands, underwater or maritime cultural

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resources, riparian forested buffers, and endangered or threatened species.

Goal 2. To restore and maintain the quality of all coastal waters for human and ecosystem health through protection from adverse effects of excess nutrients, toxics, pathogens, and sedimentation.

Goal 3. To protect air quality.

Goal 4. To reduce or prevent losses of coastal habitat, life, and property caused by shoreline erosion, storms, and other coastal hazards in a manner that balances environmental and economic considerations.

Coastal Resource Sustainable Use

Goal 5. To provide for sustainable wild fisheries and aquaculture.

Goal 6. To promote sustainable ecotourism and to increase and improve public access to coastal waters and shorefront lands compatible with resource protection goals.

Goal 7. To promote renewable energy production and provide for appropriate extraction of energy and mineral resources consistent with proper environmental practices.

Coastal Management Coordination

Goal 8. To ensure sustainable development on coastal lands and support access for water-dependent development through effective coordination of governmental planning processes.

Goal 9. To avoid and minimize coastal resource use conflicts through research, planning, and a forum for coordination and facilitation among government agencies, interest groups, and citizens.

Goal 10. To promote informed decision-making by maximizing the availability of up-to-date educational information, technical advice, and scientific data.

IMPLEMENTATION AND ENFORCEMENT

The following agencies shall have primary responsibility for implementing the enforceable policies of Virginia's Coastal Program as approved by the National Oceanic and Atmospheric Administration:

Responsible Agency and Enforceable Policies

Department of Environmental Quality (DEQ)

Point source water pollution management and nontidal wetlands management

Air pollution

Department of Conservation and Recreation (DCR)

Nonpoint source pollution management

Marine Resources Commission (MRC)

Primary sand dunes management

Tidal wetlands management

Subaqueous lands management

Fisheries management (shared with DGIF)

Department of Game and Inland Fisheries (DGIF)

Fisheries management (shared with MRC)

Department of Health

Shoreline sanitation

Chesapeake Bay Local Assistance Department

Coastal Lands Management

The following agencies are responsible for assisting with the program:

Department of Historic Resources

Department of Forestry

Department of Agriculture and Consumer Services

Virginia Institute of Marine Science

Department of Transportation

Virginia Economic Development Partnership

In addition, other agencies that conduct activities that may affect coastal resources shall conduct such activities in a manner consistent with and supportive of Virginia's Coastal Resources Management Program. For purposes of this Program, the Coastal Area shall mean Tidewater Virginia as defined in Section 28.2-100 of the Code of Virginia.

The Director of the Department of Environmental Quality (DEQ) shall monitor all state actions that affect coastal resources. When, in the judgment of the DEQ Director, a state agency, regulatory board, or commission is ready to act in a manner that appears to be inconsistent with the Program or has established a pattern of actions that appears to be inconsistent with the Program, the Director shall discuss the situation with the head of such agency, board, or commission to determine if a consistency problem in fact exists.

If after discussion, the head of such agency, board, or commission and the Director of DEQ are in disagreement about the existence of a consistency problem, the Director will inform the Secretary of Natural Resources of the disagreement. The Secretary shall then determine if a state consistency problem exists.

If the head of such agency, board, or commission and the Director of DEQ agree that a consistency problem exists, they shall attempt to resolve the problem. If they cannot resolve the problem, the Director shall advise the Secretary that an unresolved state consistency problem exists.

Upon notification of the existence of an unresolved consistency problem, the Secretary shall review the problem, determine how it should best be resolved, and effect such resolution within the Secretariat of Natural Resources or consult with other Cabinet Secretaries to resolve a consistency problem with agencies, boards, or commissions not within the Secretariat of Natural Resources. If unable to resolve the problem, the Secretary shall report to the Governor and recommend appropriate action. The Governor shall have the ultimate responsibility for resolving any consistency problem that cannot be resolved by the Secretary of Natural Resources.

Any person having authority to resolve consistency problems under the terms of this Executive Order shall resolve those problems in a manner that furthers the goals and objectives of the Program as set forth above and in accordance with existing state law, regulations, and administrative procedures.

This Executive Order rescinds Executive Order Number Twenty Three (98), issued by Governor James S. Gilmore, III.

This Executive Order shall be effective upon its signing and shall remain in full force and effect until June 30, 2006, unless amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia on this 26th day of June 2002.

/s/ Mark R. Warner
Governor

VA.R. Doc. No. R02-246; Filed July 3, 2002, 10:04 a.m.

EXECUTIVE ORDER NUMBER 24 (2002)

STATE EMPLOYEE FRAUD, WASTE, AND ABUSE HOTLINE

By virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and under the laws of the Commonwealth, including but not limited to Chapter 1 of Title 2.2 of the Code of Virginia, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby direct the State Internal Auditor to continue the anonymous State Employee Fraud, Waste, and Abuse Hotline (hereinafter known as the "Hotline") to encourage state employees to report situations where fraud, waste, or abuse may be occurring in Virginia's Executive Branch agencies and institutions.

There continues to exist within Virginia's government, as in every other state in the nation, an ongoing and continuing possibility of fraud, waste, or abuse in the conduct of government business. Despite the Commonwealth's historic reputation for honesty and integrity in the management of its affairs, we cannot be complacent. We must be diligent in ensuring that Virginia's state government is ethical and fiscally responsible.

State employees should continue to have the opportunity to report possible instances of fraud, waste, or abuse anonymously and without fear of retribution by using the Hotline. The State Internal Auditor shall be responsible for administering the Hotline. Through the Hotline, the State Internal Auditor shall:

- Provide assistance to Executive Branch agency heads in fulfilling their responsibilities for maintaining appropriate internal controls to protect against fraud, waste, and abuse.
- Make available to state employees a variety of means to report fraud, waste, and abuse in the Commonwealth's government business, one of which will be an anonymous toll-free telephone phone number, and also including, but not limited to, any other communications through the Governor's office, Cabinet Secretaries, agency heads, U.S. Mail, e-mail, fax, and the Internet.

- Implement a process for handling allegations of fraud, waste, and abuse received via the Hotline.

The State Internal Auditor, through the Executive Branch's network of internal auditing programs and agency fraud, waste, and abuse coordinators, shall ensure that investigation and resolution activities are undertaken in response to allegations received through the Hotline. The State Internal Auditor shall review the reported corrective actions taken to rectify any actual fraud, waste, or abuse identified.

The State Internal Auditor shall undertake its investigation and resolution activities in the most cost-effective manner available. Accordingly, he should assign responsibility for investigation and resolution to other investigative staffs where such responsibility is prescribed by law or where appropriate to avoid duplicating or replacing existing investigation and resolution functions.

State employees shall continue to be reminded of the Hotline through such measures as the Commonwealth Currents, payroll stubs, bulletin boards, websites, and Virginia's statewide government telephone directory.

All Executive Branch agencies of the Commonwealth shall cooperate with, and assist, the State Internal Auditor and all investigators to the fullest extent allowed by law. During the course of a Hotline investigation, investigators will have access to files, records, documents, personnel, facilities, property, and any other things necessary to conduct an investigation.

Under no circumstances shall anyone directly or indirectly interfere with a Hotline investigation, or induce or coerce others not to cooperate with investigators. Any attempt to directly or indirectly interfere with a Hotline investigation is also prohibited.

Under no circumstances shall anyone, directly or indirectly, attempt to identify or retaliate against someone suspected of calling or cooperating with the Hotline. This includes threatening to effect any reprisal; or taking, or directing others to take, or recommending, processing, or approving, any personnel action, or any other retaliatory actions, or attempts to do the same.

This Executive Order rescinds Executive Order Number Thirteen (98), Hotline for State Employees to Report Fraud, Waste or Abuse, issued by Governor James Gilmore, III.

This Executive Order shall be effective upon its signing and shall remain in full force and effect until June 30, 2006, unless sooner amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 26th day of June 2002.

/s/ Mark R. Warner
Governor

VA.R. Doc. No. R02-250; Filed July 8, 2002, 2:26 p.m.

Governor

EXECUTIVE ORDER NUMBER 25 (2002)

ESTABLISHING THE VIRGINIA ENVIRONMENTAL EDUCATION COMMISSION

By virtue of the authority vested in me under Article V of the Constitution of Virginia and under the laws of the Commonwealth, including but not limited to Sections 2.2-103 and 2.2-134 of the Code of Virginia, and subject always to my continuing and ultimate authority to act in such matters, I hereby create the Virginia Environmental Education Commission.

The Commission is classified as a gubernatorial advisory commission in accordance with Sections 2.2-134 and 2.2-2100 of the Code of Virginia.

The Commission shall have the responsibility to advise the Governor on all matters related to environmental education in the Commonwealth, pursuant to Article XI, Section 1 of the Constitution of Virginia. Recognizing that environmental literacy and stewardship spring from knowledge and firsthand experiences in the outdoors, the Commission shall identify goals and strategies that promote meaningful environmental education throughout the Commonwealth.

The Commission's responsibilities shall include:

- Identifying and assessing needs and priorities for environmental education in the Commonwealth, and
- Reviewing Virginia's plan for environmental education and reporting on its implementation to the Governor and the Secretary of Natural Resources annually.

I hereby grant authority to the Secretary of Natural Resources to appoint members of the Commission. The Commission shall be comprised of not more than 30 members appointed by and serving at the pleasure of the Secretary of Natural Resources. The Secretary of Natural Resources shall designate the Chairman and Vice Chairman of the Commission.

Members of the Commission shall serve without compensation but may receive reimbursement for expenses incurred in the discharge of their official duties only upon the approval of the Chief of Staff.

Such staff support as is necessary for the Commission's work during the term of its existence shall be coordinated by the Department of Environmental Quality. I hereby direct all executive branch agencies to assist in the work of the Commission upon the request of the Secretary of Natural Resources. An estimated 750 hours of staff support will be required to support the Commission.

Funding necessary to support the Commission's work will be provided from sources, including both private and taxpayers' money appropriated for purposes related to the work of the Commission, as authorized by Section 2.2-135 of the Code of Virginia. Direct expenditures for the Commission's work are estimated to be at \$7,000.

This Executive Order shall become effective upon its signing and shall remain in full force and effect until June 26, 2003 unless amended or rescinded by a future executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia, this 26th day of June 2002.

/s/ Mark R. Warner
Governor

VA.R. Doc. No. R02-247; Filed July 3, 2002, 10:04 a.m.

EXECUTIVE ORDER NUMBER 26 (2002)

DELEGATION OF AUTHORITY CONFERRED BY CHAPTER 899 OF THE 2002 ACTS OF ASSEMBLY

By virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and under the laws of the Commonwealth, including, but not limited to, § 2.2-104 of the Code of Virginia, and subject always to my continuing and ultimate authority and responsibility to act in such matters and to reserve powers, I hereby delegate to the individuals holding the positions named herein the several powers and duties conferred upon me by the provisions of Chapter 899 of the 2002 Acts of Assembly (Appropriation Act for the 2002-04 Biennium), and Chapters 781, 789, 849, 892, 894 and 896 of the 1992 Acts of Assembly (General Obligation Bond Acts), as detailed below.

Unless otherwise specified, "Item/Section" references below refer to Chapter 899 of the 2002 Acts of Assembly.

I. Delegations of Authority to Officials in the Office of Administration

A. To the Secretary of Administration:

Item/Section	Subject Matter
206 E.2	Approval of lease of space for technology transfer, research, and graduate work at Old Dominion University.
C-103	Authorization of capital project for Department of Blind and Vision Impaired.
C-108.10	Approval of land acquisition in Stafford County for Department of Conservation and Recreation.
C-133	Approval of Northern Virginia Office Building for Virginia Department of Transportation.
§ 4-4.01 u.	Amend, adjust or waive any project review and reporting procedures of Executive agencies as may reasonably be required to promote the property improvement goals for which the lease agreement was developed, in the case of any lease agreement involving state-owned property controlled by an institution of higher education, where the lease has been entered into consistent with the provisions of § 2.2-1155, Code of Virginia.
§ 4-5.09	Approve space-planning procedures for leased facilities and waive requirements under which agencies can acquire real property by lease, if such action may, in the opinion of the Governor, avoid an increase in cost or otherwise result in a measurable benefit to the state and funds are

available within the appropriations made by Chapter 899.

§ 4-6.04 c.1. Approve basis for charging employees for parking spaces in state-owned facilities and determine the use of parking charges to pay costs of parking.

§ 4-8.01 c.3 Submit monthly reports on changes in the level of compensation for job classes contained in compensation and classification plans.

B. To the Director, Department of General Services:

§ 2-0 C Prescribe guidelines for purchase of equipment to be used in structures for which funds are provided.

§ 4-4.01 g Approve preliminary requirements for capital projects.

§ 4-4.01 I Require capital projects to conform with space planning guides approved by the Governor or General Assembly for any type of construction.

§ 4-4.01 o Specify reporting requirements on progress of capital projects, and, if the Governor finds that projects are not making satisfactory progress, take action necessary to ensure that legislative intent is met, as defined in §4-4.01 o.

§ 4-5.12 a. May sell or lease surplus real property only under certain conditions. Notify in writing the chairmen of the House Appropriations and Senate Finance Committees not less than thirty days prior to such sale or lease.

§ 4-8.01 b.7 Submit reports on waivers of the requirements on agencies acquiring real property by lease to the Chairmen of House Appropriations and Senate Finance Committees.

§ 4-8.01 d.1 Submit reports on progress of capital projects to Chairmen of House Appropriations and Senate Finance Committees on a monthly basis, or at such intervals as specified by said chairmen, or as specified elsewhere in the act.

C. To the Director, Department of Human Resource Management:

§ 4-6.01 f Approval of incentive award payments.

§ 4-6.01 h Approve a plan for statewide employee meritorious service awards program, as provided in § 2.2-1201.12, Code of Virginia.

§ 4-6.02 Establish uniform rules and regulations by which the head of any state agency may authorize, from any funds appropriated to such department, institution or other state agency in Chapter 899 or subsequently made available for the purpose, compensation or expenses or both for employees pursuing approved training courses or academic studies for the purpose of becoming better equipped for their employment in the state service.

II. Delegation of Authority to Officials in the Office of Commerce and Trade

To the Secretary of Commerce and Trade

130 E.1 Reallocation of unobligated Workforce Investment Board funds.

III. Delegation of Authority to Officials in the Office of Education

To the Secretary of Education:

§ 4-8.01 e.2 Submit reports on status of certain State Council of Higher Education exemptions to policy which prohibits use of funds for certain academic programs.

IV. Delegations of Authority to Officials in the Office of Finance

A. To the Secretary of Finance:

270 B.2 Request information from institutions of higher education on specific equipment to be purchased through the Virginia College Building Authority.

C-20.10 Approval of alternative financing scenario for student housing at George Mason University.

C-67.20 Approval of Virginia Public Building Authority funds for Tidewater Community College capital projects.

§ 3-3.02 Direct State Comptroller to restore disputed charges against working capital funds.

§ 3-5.01 Transfer of accelerated sales and use tax collections.

§ 4-1.02 a Restrain the State Comptroller from making further disbursements, in whole or in part, out of the appropriations to any agency expending its monies for any purposes other than those specified in Chapter 899.

§ 4-1.05 a.4 Report increases in appropriations from revenues received from leases for communications towers.

§ 4-1.06 a.1 Approve reappropriation of general fund appropriations unexpended on June 30, 2002, and June 30, 2003, for agencies in the Executive Department.

§ 4-1.06 a.1 Prescribe management standards under which unexpended appropriations may be reappropriated for institutions of higher education and other state agencies.

§ 4-1.06 a.2 Certify that funds are available before payment for reappropriation is made in cases where the General Assembly provided for reappropriation payable from the general fund.

§ 4-1.08 Act on appeals of agency heads regarding allotment of funds from appropriations and authorization of rates of pay.

Governor

§ 4-5.01 a Designate appropriations for payment of claims settled pursuant to § 2.2-514 of the Code of Virginia.

B. To the Director, Department of Planning and Budget:

270 A.4 Submission through the budget process of the estimated amount of lease payments and corresponding value of equipment, for transfer to the Virginia College Building Authority.

270 B.2 Approve emergency acquisitions of instructional and research equipment through the higher education equipment trust fund by institutions of higher education when the General Assembly is not in session, and report such acquisitions to the Chairmen of the House Appropriations and Senate Finance Committees.

§ 2-0 E Prescribe rules and regulations for expenditures from items identified as "Maintenance Reserve."

§ 4-1.06 a.1 Unallot funds from reappropriated balances of Executive Department agencies which relate to three categories of unexpended appropriations, with such unallotted amounts to revert to the general fund.

§ 4-2.01 a.1 Give written approval for agencies soliciting and accepting donations, gifts, grants or contracts under stated conditions.

§ 4-2.01 a.2 Issue written policies for agencies soliciting and accepting donations, gifts, and grants under stated conditions.

§ 4-2.01 c Higher education planned excess revenues: receive documented information from institutions of higher education generating and retaining fees collected in excess of rates provided in § 4-2.01 b.

§ 4-2.03 b.1 Include estimated agency indirect cost recoveries in the Budget Bill.

§ 4-3.01 b Reporting of the unauthorized deficit provisions of the Appropriation Act to the governing boards and heads of state agencies.

§ 4-4.01 h Provide prior written approval for architectural or engineering planning, or construction of, or purchase of capital project before it is commenced or revised.

§ 4-4.01 h Release from any capital project appropriation or reappropriation made pursuant to Chapter 899 such sum (or sums) as may be necessary to pay for the preparation of plans and specifications by architects and engineers, provided certain conditions are met.

§ 4-4.01 h Approve the estimated costs of architectural or engineering fees paid on completion of the preliminary design for any such project.

§ 4-8.01 b, 1-6 Submit monthly reports on operating appropriations.

§ 4-8.01 a.2 Make available annually to the Chairmen of the Senate Finance, House Finance, and House Appropriations Committees a report concerning the receipt of any nongeneral funds above amounts specifically appropriated, their sources and the amounts for each agency affected.

§ 4-8.01 c.1 Submit monthly reports on status of changes in positions and employment of state agencies affected to the Chairmen of House Appropriations and Senate Finance Committees.

§ 4-8.01 d.2 Submit monthly reports on progress of capital projects under Governor's authority in § 4-4.01 m, which addresses projects not included in the Appropriation Act and which meet specific requirements (e.g. auxiliary enterprise, continue effective operation of existing program).

§ 4-8.01 e.1 Submit monthly reports on status of new services requested by agencies and authorized by the Governor.

§ 2 and § 9 of Chapters 781, 789, 849, 892, 894 and 896, Acts of Assembly of 1992. Increase or decrease allocations to specific capital projects, within total amounts allocated (§ 2) and increase appropriations for capital projects by the amount of the proceeds of donations, gifts, grants, or other nongeneral funds (§ 9).

V. Delegation of Authority to Officials in the Office of Public Safety

To the Secretary of Public Safety:

§ 4-5.03 Authorize transfer of prison labor, or farm commodities produced, at any state agency to any other state agency.

VI. Delegation of Authority to Officials in the Office of Technology

To the Director, Department of Information Technology:

§ 4-5.06 e Approve expenditures for motion picture, television and radio services production and operation.

VI. Delegation of Authority to Officials in the Office of Transportation

To the Secretary of Transportation:

§ 4-8.01 c.2 Submit monthly reports on status of employment by the Attorney General of special counsel in certain highway proceedings.

Should conflicts arise concerning any action authorized by this Executive Order, such matters shall be resolved by me.

This Executive Order rescinds Executive Order Number Thirty-Five (98) issued by Governor James S. Gilmore, III.

This Executive Order shall be effective July 1, 2002, and shall remain in full force and effect until June 30, 2004, unless sooner amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia, this 26th day of June 2002.

/s/ Mark R. Warner
Governor

VA.R. Doc. No. R02-248; Filed July 3, 2002, 10:04 a.m.

EXECUTIVE ORDER NUMBER 27 (2002)

VIRGINIA'S COMPLIANCE WITH THE FAIR LABOR STANDARDS ACT

By virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and the laws of the Commonwealth, including but not limited to Section 2.2-103 of the Code of Virginia, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby renew an initiative to evaluate and promote compliance with the federal Fair Labor Standards Act (FLSA) by Executive Branch state agencies and, where appropriate, to design alternative strategies that would benefit agency operations and meet the requirements of the Act.

It shall be the policy of the Commonwealth of Virginia to conduct an ongoing review, through the Office of the Attorney General and such outside counsel as may be necessary, of the FLSA practices and procedures of the agencies of the Executive Branch of government.

The Fair Labor Standards Act, 29 U.S.C. 201, et seq., became applicable to state and local governments in April of 1986. At that time, agencies of the Commonwealth examined their employee positions and work practices in an effort to bring the Commonwealth into compliance with the Act. It is in the interests of the Commonwealth to continue this process of review, and to update its work practices to remain in full compliance with federal law.

In order to help maintain a government work force that fully conforms to applicable federal wage and hour laws, I direct all Secretaries and agency heads of the Commonwealth of Virginia to cooperate and aid the Office of the Attorney General in its reviews of FLSA practices, to support FLSA training activities, and to communicate to the Office of the Attorney General, through the Department of Human Resource Management, questions concerning FLSA requirements.

This Executive Order shall be applicable to all Executive Branch agencies and institutions, including state-supported institutions of higher education.

Where the Office of the Attorney General determines it is necessary to conduct formal review of agencies' FLSA compliance, it shall address the duties performed by various categories of employees and the compensation practices within Executive agencies and institutions. The Office of the Attorney General retains the flexibility to tailor its approach to each agency and institution to address specific conditions and needs. However, the Office of the Attorney General shall

generally examine employment policies and procedures, interview managers, and visit sites within each executive agency and institution. An educational component, intended to familiarize Human Resource personnel with the overall requirements of the Act, shall precede each review. This training should result in promoting the involvement of Human Resources personnel in the review process.

Following the review, the Office of the Attorney General shall offer advice to the agencies on changing operations in order to avoid FLSA violations. It shall also make suggestions regarding how the agencies could take advantage of FLSA rules to improve operations. The costs of formal reviews shall be borne by the agencies under review. The Office of the Attorney General shall make agency heads aware of their responsibility to cooperate with these reviews and to pay their costs.

This Executive Order rescinds Executive Order Fifty-Three (99) issued by Governor James S. Gilmore, III. This Executive Order shall be effective upon its signing, and shall remain in full force and effect until June 30, 2006, or until amended or rescinded by further Executive Order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 26th day of June 2002.

/s/ Mark R. Warner
Governor

VA.R. Doc. No. R02-249; Filed July 3, 2002, 10:04 a.m.

EXECUTIVE ORDER NUMBER 28 (2002)

CONTINUING THE STATEWIDE AGENCIES RADIO SYSTEM (STARS)

It is essential that a statewide system of integrated radio and wireless data communication be developed for state agencies engaged in public protection and safety and for the mutual aid needs of state and local law enforcement agencies.

The management structure of a statewide radio system that is shared between numerous agencies that provide public protection and safety services poses considerable challenges. To meet the needs of all potential users, the managing entity must establish and provide formal communication avenues for users of the system to report system problems and to provide valuable input to the design of the system and its efficient operations and troubleshooting.

In order to be effective, a statewide radio system must meet the needs of a diverse group of agencies and localities. Therefore, appropriate entities, composed of Secretarial representation for each of the participating agencies, must be established and empowered to oversee policy and direction for the system. Also, an implementation and operation unit must be established to manage, maintain, and operate a reliable integrated radio communications system.

By virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and under the laws of the Commonwealth, including but not limited to Section 2.2-103 of the Code of Virginia, and subject to my continuing and ultimate authority and responsibility to act in such matters, I

Governor

hereby continue the initiative to accomplish the goals of the Statewide Agencies Radio System (STARS).

STARS Continued

Pursuant to Chapter 3, Title 42, of the Code of the Virginia, I hereby continue the initiatives associated with the Statewide Agencies Radio System (STARS) to meet the need for an integrated radio and wireless data communications system for state agencies engaged in public protection and safety and for interconnection between state and local police communication systems at the city or county level. As part of this initiative, I hereby continue the STARS Management Group (hereinafter called the "Management Group"), the STARS Project Management Team (hereinafter called the "Management Team"), and the User Agency Requirements Committee (hereinafter called "UARC").

STARS Membership

The STARS membership shall be composed of the following state agencies, and any other state agencies or institutions and local government agencies or institutions that the Management Group approves:

Department of Alcoholic Beverage Control,
Department of Aviation,
Division of Capitol Police,
Department of Conservation and Recreation,
Department of Corrections,
Department of Emergency Management,
Department of Environmental Quality,
Department of Fire Programs,
Department of Forestry,
Department of Game and Inland Fisheries,
Department of Health,
Department of Information Technology,
Department of Juvenile Justice,
Department of Military Affairs,
Department of Mines, Minerals, and Energy,
Department of Motor Vehicles,
Department of Professional and Occupational Regulation,
Department of State Police,
Department of Transportation, and
the Virginia Marine Resources Commission.

Withdrawal by state agencies and institutions from STARS shall be only upon approval of the Management Group.

STARS Management Group

The Management Group shall provide overall direction and governance for the development, implementation, and ongoing operation of STARS.

A. Composition of the Management Group:

The Secretaries of Public Safety, Technology, Transportation, Natural Resources, Commerce and Trade, Health and Human Resources, and Finance shall serve as members of the Management Group.

The Secretary of Public Safety shall serve as chair of the Management Group. The chair of the Management Group shall have the power to set meetings and make assignments to members of the user group established below.

B. Duties of the Management Group:

The specific duties of the Management Group are to:

- Provide direction and overall governance for the STARS, including communications privacy and security,
- Review all procurements and contracts relating to the STARS,
- Coordinate and assign radio frequency licenses granted by the federal government to agencies of the Commonwealth, and
- Promote interagency cooperation and coordination in the use of communications resources.

The Management Group shall also designate and oversee the Management Team.

STARS Project Management Team

The Management Team shall provide staff for overall direction and governance for the development, implementation, and ongoing operation of STARS.

A. Composition of the Management Team:

The Management Team shall consist of persons with project management, electrical engineering, civil engineering, communications technology, procurement, contract administration, and accounting expertise.

B. Duties of the Management Team:

The Management Team shall be responsible for development of a comprehensive management plan and procedures for the use and operation of STARS. It shall also be responsible for resolving general operating issues between STARS users. Any issues that cannot be resolved by the Management Team shall be addressed by the Management Group.

STARS User Agency Requirements Committee (UARC)

A user group called the User Agency Requirements Committee (UARC), consisting of representatives from each member agency and institution, shall assist the Management Team. The Management Group shall select the chairman and co-chairman of UARC.

A. Composition of UARC:

The head of each member agency and institution shall appoint one member of their respective staffs and a designated alternate to serve on UARC

B. Duties of UARC:

The User Group shall assist the Management Team by establishing such operating procedures, executive committee, and subcommittees, as it deems appropriate to carry out its work. UARC shall meet as necessary, but at least quarterly.

The specific duties of UARC are to:

- Advise of the needs of member agencies for the planning, design, establishment, and operation of STARS,
- Provide advice on proposals for other federal, state, or local agencies to join STARS and on any proposals for third party use of any STARS infrastructure or component, and
- Assist the Management Team with the development of a comprehensive management plan and procedures for the use and operation of STARS. The management plan and any changes thereto shall be subject to review and approval by the Management Group.

STARS Procurement

As provided in Item 457 of the 2002 Appropriation Act (Chapter 899 of the 2002 Acts of Assembly), the Commonwealth shall not enter into any contract for implementation of STARS without the approval of the Governor and the General Assembly.

The Secretary of Public Safety, with the assistance of the Secretary of Finance, the Secretary of Technology, the Department of Planning and Budget, and the Treasurer, shall oversee the review of proposals and the development of any contract for such a radio communication system, including the financing of the system.

The Management Group shall report on the status of STARS, including the status of any contract negotiations within the limitations of the Virginia Public Procurement Act (Section 11-35 et seq. of the Code of Virginia) to the Governor and General Assembly by January 1 of each year.

This Executive Order rescinds Executive Order Seventy-Six (01) issued by Governor James S. Gilmore, III.

This Executive Order shall become effective upon its signing and shall remain in full force and effect until June 30, 2006, unless amended or rescinded by further Executive Order.

Given under my hand and the Seal of the Commonwealth of Virginia on this 26th day of June 2002.

/s/ Mark R. Warner
Governor

VA.R. Doc. No. R02-253; Filed July 10, 2002, 9:12 a.m.

EXECUTIVE ORDER NUMBER 29 (2002)**EQUAL OPPORTUNITY IN STATE PROCUREMENT**

Meeting the challenges of the 21st century and the New Economy demands that the Commonwealth of Virginia maximize the participation of its citizens and enterprises in the

commercial life of the Commonwealth. Thus, it is the policy of the Commonwealth to make sure that small businesses and businesses owned by women and minorities receive every opportunity to compete for the Commonwealth's expenditures for goods and services. Ensuring the inclusion of these businesses in state procurement processes constitutes not only good public policy but also good business and enlightened self-interest.

Just as equal employment opportunity must be an integral part of normal personnel policy, procedures, and practices, so the use of small businesses and businesses owned by women and minorities must be an important feature of the Commonwealth's normal purchasing policy, procedures, and practices. No potential supplier should be precluded from consideration on the basis of race, color, religion, gender, age, or national origin. Every attempt must be made to fully utilize all of the Commonwealth's resources, human as well as material, in an effort to obtain high quality goods and services at reasonable costs.

Every employee who is delegated the responsibility either directly or indirectly to commit the expenditure of funds for the purchase of goods and services on behalf of the Commonwealth is charged with making the objective of supplier diversity a reality. Success depends upon the full, unqualified participation and commitment of all such employees. Employees must conduct all procurement procedures and practices in a fair and impartial manner, avoiding any impropriety or appearance thereof.

The Virginia Public Procurement Act (VPPA), in Section 2.2-4310(A) of the Code of Virginia, prohibits all public bodies from discriminating against anyone seeking a contract from the state on the basis of that person's race, religion, color, sex, or national origin. Additionally, whenever a public body engages in a solicitation, it is required to "include enterprises selected from a list made available by the Department of Minority Business Enterprise." The Department of General Services' Procurement and Surplus Property Manual defines solicitation to include Invitations for Bids (IFB), Requests for Proposals (RFP), telephone calls, or any other document issued by the state to obtain bids or proposals for the purpose of entering into a contract.

Under Section 2.2-4310(B) of the VPPA, each public body is required to develop a written program "to facilitate the participation of small enterprises and enterprises owned by women and minorities in procurement" that includes cooperation with the Department of Minority Business Enterprise, the United States Small Business Administration, and other public or private agencies. These programs must include provisions to ensure that the public body does not discriminate in the soliciting or awarding of contracts and that, when all solicitations are made, there are enterprises included in the solicitation selected from a list made available by the Department of Minority Business Enterprise.

By virtue of the authority vested in me under Article V, Section 1 of the Constitution of Virginia and Sections 2.2-103, 2.2-104, 2.2-106, and 2.2-1400 of the Code of Virginia, I hereby direct the Cabinet and all heads of all state agencies and public bodies to take the following action to implement the equal

Governor

opportunity and nondiscrimination requirements set forth in the VPPA:

Each Cabinet Officer must submit to the Chief of Staff no later than August 15 of each fiscal year a written program from each agency or public body within his or her secretariat that aims to facilitate the participation of small businesses and businesses owned by women and minorities in procurement transactions with the agency or public body that fiscal year. The first such report is due by August 15, 2002.

Such programs must include provisions to ensure that the agency or public body does not discriminate in the soliciting or awarding of contracts in violation of Section 2.2-4310 of the Code of Virginia and that, when solicitations are made, businesses are included in the solicitation that are selected from a list made available by the Department of Minority Business Enterprise. Each written program must address minority prime contracting and subcontracting and include strategies for continuous improvement in both areas.

Each agency's or public body's written program must be reviewed and approved by the applicable Secretary with the advice and assistance of the Secretary of Administration, the Director of the Department of Minority Business Enterprise, and the Director of the Department of General Services.

To assist agencies in the development of required written programs, the Chief of Staff is authorized to develop a model written program, in consultation with the Secretary of Administration, the Department of Minority Business Enterprise, the Department of General Services, and the Office of the Attorney General.

This Executive Order shall be effective upon its signing and shall remain in full force and effect until June 30, 2006, unless amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia, this 2nd day of July 2002.

/s/ Mark R. Warner
Governor

VA.R. Doc. No. R02-254; Filed July 10, 2002, 9:12 a.m.

GENERAL NOTICES/ERRATA

ALCOHOLIC BEVERAGE CONTROL BOARD

Notice of Periodic Reviews

The Alcoholic Beverage Control Board invites public comment on:

3 VAC 5-30. Tied-House.

The goal of these regulations is to promote the public health, safety, and welfare by maintaining the reasonable separation of retailer interests from those of the manufacturers, bottlers, brokers, importers and wholesalers.

3 VAC 5-40. Requirements for Product Approval.

The goals of these regulations are:

1. To determine the nature, form and capacity of all containers used for holding alcoholic beverages, and prescribe the form and content of all labels and seals to be placed thereon.
2. To protect consumers of alcoholic beverages from misleading information concerning the identity or contents of alcoholic beverage products sold in the Commonwealth.

Pursuant to Executive Order 25 (98), the board will consider whether (i) the regulations are effective in achieving their goals; (ii) the regulations are essential to protect the health, safety or welfare of citizens or for the efficient performance of an important governmental function; (iii) there are less burdensome and less intrusive alternatives for achieving the essential purpose; and (iv) the regulations are clearly written and easily understandable by the individuals and entities affected.

Comments on the regulations and suggested amendments are welcome and will be accepted until August 20, 2002. Comments should be sent to Sara M. Gilliam, Assistant Secretary, Department of Alcoholic Beverage Control, 2901 Hermitage Road, P.O. Box 27491, Richmond, VA 23261, or e-mail to smgillm@abc.state.va.us or FAX to (804) 213-4411.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

Notice of Periodic Review

Pursuant to Executive Order 21 (02), the Chesapeake Bay Local Assistance Department will review its regulations for Public Participation Guidelines (9 VAC 10-10). The purpose of the review is to determine whether the regulations should be terminated, amended, or retained in their current form. The review of the regulations will be guided by the principles listed in Executive Order 21 (02).

The purpose of these regulations is to protect public health and welfare with the least possible costs and intrusiveness to the citizens and businesses of the Commonwealth and to establish guidelines for the involvement of the public and affected parties in the development and modification of regulations implementing the Chesapeake Bay Preservation Act.

The department and the board are seeking public comment on the review of any issue relating to these regulations including whether (i) the regulations are effective in achieving their goals; (ii) the regulations are essential to protect the health, safety or welfare of citizens or for the economical performance of important governmental functions; (iii) there are less burdensome and less intrusive alternatives for achieving the purpose of the regulations; and (iv) the regulations are clearly written and easily understandable by the affected persons.

Comments on the above are welcome and will be accepted until August 29, 2002. Comments should be sent to David Kovacs, CBLAD Policy Planner, 101 North 14th St., 17th Floor, Richmond, Virginia 23219, (804) 786-1518 or email dkovacs@cblad.state.va.us. Please include your full name and mailing address in the email.

STATE BOARD OF HEALTH

Notice Inviting Public Comment on the State WIC Plan

The Virginia Department of Health (VDH) invites the public to comment on the development of a plan to administer the Special Supplemental Nutrition Program for Women, Infants and Children (the WIC program) in Virginia.

Pursuant to 7 CFR 246.4, the responsible agency in each state that administers a WIC program must submit annually to the U.S. Department of Agriculture (USDA) a State Agency Plan for each fiscal year as a prerequisite to receiving federal funds. The Virginia Department of Health (VDH) administers the Virginia WIC Program and must submit such a plan by August 14, 2002.

The development of the Virginia State Agency Plan is underway, and the public is invited to comment on its development and to view the plan during regular workdays from 8:30 a.m. until 4:30 p.m. in the offices of VDH, Division of WIC and Community Nutrition Services, 1500 East Main Street, Room 135, Richmond, Virginia 23219.

Questions regarding development and implementation of the plan may be directed to Bernice Parker, Policy Coordinator, Department of Health, Division of WIC, 1500 East Main Street, Richmond, VA 23219, bwarker@vdh.state.va.us, telephone (804) 786-5420 or FAX (804) 371-6162.

STATE LOTTERY DEPARTMENT

The following Director's Orders of the State Lottery Department were filed with the Virginia Registrar of Regulations on July 3, 2002. The orders may be viewed at the State Lottery Department, 900 E. Main Street, Richmond, Virginia or at the office of the Registrar of Regulations, 910 Capitol Street, 2nd Floor, Richmond, Virginia.

DIRECTOR'S ORDER NUMBER FIFTEEN (02)

Virginia's Instant Game Lottery 230; "Nifty 50's," Final Rules for Game Operation (effective 4/2/02).

General Notices/Errata

DIRECTOR'S ORDER NUMBER SIXTEEN (02)

Virginia's Instant Game Lottery 513; "Triple Tripler," Final Rules for Game Operation (effective 4/2/02).

DIRECTOR'S ORDER NUMBER SEVENTEEN (02)

"Mega Millions" Virginia Lottery Retailer Incentive Program Rules (effective 5/14/02).

DIRECTOR'S ORDER NUMBER EIGHTEEN (02)

Virginia's Instant Game Lottery 231; "Luck of the Dice," Final Rules for Game Operation (effective 4/30/02).

DIRECTOR'S ORDER NUMBER NINETEEN (02)

Virginia's Instant Game Lottery 514; "10 Times the Money," Final Rules for Game Operation (effective 4/30/02).

DIRECTOR'S ORDER NUMBER TWENTY (02)

Virginia's Instant Game Lottery 515; "Cash Blast," Final Rules for Game Operation (effective 5/2/02).

DIRECTOR'S ORDER NUMBER TWENTY-THREE (02)

Virginia's Instant Game Lottery 516; "Las Vegas Boulevard," Final Rules for Game Operation (effective 5/8/02).

DIRECTOR'S ORDER NUMBER TWENTY-FOUR (02)

Virginia's Instant Game Lottery 490; "Hidden Treasures," Final Rules for Game Operation (effective 5/16/02).

DIRECTOR'S ORDER NUMBER TWENTY-FIVE (02)

Virginia's Instant Game Lottery 491; "\$100,000 Casino," Final Rules for Game Operation (effective 5/16/02).

DIRECTOR'S ORDER NUMBER TWENTY-EIGHT (02)

Virginia's Instant Game Lottery 320; "Bonus Number Bingo," Final Rules for Game Operation (effective 5/22/02).

DIRECTOR'S ORDER NUMBER TWENTY-NINE (02)

Virginia's Instant Game Lottery 232; "Give Me Five," Final Rules for Game Operation (effective 5/30/02).

DIRECTOR'S ORDER NUMBER THIRTY (02)

Virginia's Instant Game Lottery 235; "Blackjack," Final Rules for Game Operation (effective 5/30/02).

DIRECTOR'S ORDER NUMBER THIRTY-ONE (02)

Virginia's Instant Game Lottery 233; "Fish Bowl," Final Rules for Game Operation (effective 6/20/02).

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Notice of Intent to Reduce Payments to Hospitals

Notice is hereby given that the Department of Medical Assistance Services (DMAS) intends to modify its reimbursement plan for hospitals pursuant to the department's authority under Title XIX of the Social Security Act. This notice is intended to satisfy the requirements of 42 CFR 447.205 and of § 1902(a)(13) of the Social Security Act, 42 USC § 1396a(a)(13). The changes contained in this public notice are occurring in response to mandates of the 2002 General Assembly as contained in the 2002 Acts of Assembly, Chapter 899, Item 325 KK. The changes contained in this notice are to become effective September 1, 2002.

The department's modification to its reimbursement plan for hospitals will reduce all hospitals' payments in state fiscal years 2003 and 2004. Payments will be reduced by a constant percentage of Medicaid revenue, with the limitation that the reduction may not exceed \$500,000 for any one hospital. The percentage reduction will be calculated to achieve the required savings amounts, which are identified below. Payment reductions will be achieved by offsetting remittances and the reductions will be spread evenly throughout the year.

The expected and legislatively required annual decrease in expenditures for payments to hospitals in state fiscal year 2003 is \$4,400,000 in general funds or \$8,935,825 total funds. Additional decreases in expenditures for payments to hospitals in state fiscal year 2004 are \$4,565,000 in general funds or \$9,227,815 total funds.

A copy of this notice is available for public review from N. Stanley Fields, Director, Division of Cost Settlement and Audit, DMAS, 600 Broad Street, Suite 1300, Richmond, VA 23219, and this notice is available for public review at any local public library. Comments or inquiries may be submitted, in writing, within 30 days of this notice publication to Mr. Fields and such comments are available for review at the same address.

DEPARTMENT OF TAXATION

Tax Bulletin 02-4

June 26, 2002

Interest Rates Third Quarter 2002

Rates Remain Unchanged: State and certain local interest rates are subject to change every quarter based on changes in federal rates established pursuant to IRC § 6621. The federal rates for the third quarter of 2002 will remain at 6% for tax underpayments (assessments), 6% for tax overpayments (refunds) by taxpayers other than corporations, and 8% for "large corporate underpayments" as defined in IRC § 6621 (c). Code of Virginia § 58.1-15 provides that the underpayment rates for Virginia taxes will be 2% higher than the corresponding federal rates and overpayment rates for Virginia taxes will be 2% higher than the federal rate for noncorporate taxpayers. Accordingly, the Virginia rates for the third quarter of 2002 will be 8% for tax underpayments (assessments), 8% for tax overpayments (refunds), and 10% for "large corporate underpayments."

Rate for Addition to Tax for Underpayments of Estimated Tax

Taxpayers whose taxable year ends on June 30, 2002: For the purpose of computing the addition to the tax for underpayment of Virginia estimated income taxes on Form 760C (for individuals, estates and trusts), Form 760F (for farmers and fishermen) or on Form 500C (for corporations), the 8% underpayment rate will apply through the due date of the return, October 15, 2002 (for corporations), and November 1, 2002 (for individuals and fiduciaries).

Local Tax

Assessments: Localities that assess interest on delinquent taxes under Code of Virginia § 58.1-3916 may impose interest at a rate not to exceed 10% for the first year of delinquency, and at a rate not to exceed 10% or the federal underpayment rate in effect for the applicable quarter, whichever is greater,

for the second and subsequent years of delinquency. For the third quarter of 2002, the federal underpayment rate is 6%.

Refunds: Effective July 1, 1999, localities which charge interest on delinquent taxes are required paying interest to taxpayers on all overpayments or erroneously assessed taxes at the same rate as they charge interest on delinquent taxes under Code of Virginia § 58.1-3916.

Recent Interest Rates

Accrual Beginning	Period Through	Non-Corporation Overpayment (Refund)	Corporation Overpayment (Refund)	Underpayment (Assessment)	Large Corporate Underpayment
1-Apr-92	30-Sep-92	7%	7%	10%	12%
1-Oct-92	30-Jun-94	6%	6%	9%	11%
1-Jul-94	30-Sep-94	7%	7%	10%	12%
1-Oct-94	31-Mar-95	8%	8%	11%	13%
1-Apr-95	30-Jun-95	9%	9%	12%	14%
1-Jul-95	31-Mar-96	8%	8%	11%	13%
1-Apr-96	30-Jun-96	7%	7%	10%	12%
1-Jul-96	31-Mar-98	8%	8%	11%	13%
1-Apr-98	31-Dec-98	7%	7%	10%	12%
1-Jan-99	31-Mar-99	7%	6%	9%	11%
1-Apr-99	31-Dec-99	8%	7%	10%	12%
1-Jan-00	31-Mar-00	10%	10%	10%	12%
1-Apr-00	31-Mar-01	11%	11%	11%	13%
1-Apr-01	30-Jun-01	10%	10%	10%	12%
1-Jul-01	31-Dec-01	9%	9%	9%	11%
1-Jan-02	30-Sep-02	8%	8%	8%	10%

Additional Information: Contact Customer Services, Virginia Department of Taxation, P.O. Box 1115, Richmond, Virginia 23218-1115, or call the following numbers for additional information about interest rates and penalties.

Individual & Fiduciary Income Tax	(804) 367-8031
Corporation Income Tax	(804) 367-8037
Withholding Tax	(804) 367-8037
Soft Drink Excise Tax	(804) 367-8098
Aircraft Sales & Use Tax	(804) 367-8098
Other Sales & Use Taxes	(804) 367-8037

STATE WATER CONTROL BOARD

Proposed Consent Special Order Mr. Andrew James, Jr.

The State Water Control Board proposes to issue a consent special order to Mr. Andrew James, Jr. to resolve certain alleged violations of environmental laws and regulations occurring at Ashes General Merchandise in Achilles, Virginia. The proposed order requires Mr. Andrew James, Jr. to pay a \$700 civil charge.

On behalf of the State Water Control Board, the Department of Environmental Quality will receive for 30 days from the date of publication of this notice written comments relating to the proposed consent special order. Comments should be

addressed to Vernon Williams, Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, VA 23060-6295. A copy of the order may be obtained in person or by mail from the above office.

Proposed Consent Special Order Carpenter Co.

The State Water Control Board proposes to issue a consent special order to Carpenter Co. to resolve certain alleged violations of environmental laws and regulations occurring at the Carpenter Co. facility located at 2400 Jefferson Davis Hwy., in Richmond, Virginia. The proposed order requires Carpenter Co. to take corrective actions to address unpermitted discharges and to comply with state laws and regulations; and it includes the payment of a civil charge.

On behalf of the State Water Control Board, the Department of Environmental Quality will receive for 30 days from the date of publication of this notice written comments relating to the proposed consent special order. Comments should be addressed to Cynthia Akers, Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia 23060; or sent to the e-mail address of ecakers@deq.state.va.us. All comments received by e-mail must include your name, address and phone number. A copy of the order may be obtained in person or by mail from the above office.

General Notices/Errata

Proposed Consent Special Order DuPont Teijin Films

The State Water Control Board proposes to issue a consent special order to DuPont Teijin Films to resolve certain alleged violations of environmental laws and regulations occurring at their facility in Hopewell, Virginia. The proposed order requires DuPont Teijin Films to execute corrective action and pay a \$4,200 civil charge.

On behalf of the State Water Control Board, the Department of Environmental Quality will receive for 30 days from the date of publication of this notice written comments related to the proposed consent special order. Comments should be addressed to Frank Lupini, Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia 23060-6295; or sent to the e-mail address of felupini@deq.state.va.us. All comments received by e-mail must include your name, address and phone number. A copy of the order may be obtained in person or by mail from the above office.

Proposed Consent Special Order Mr. Hank Wilton D.B.A/The Wilton Companies D.B.A./The Wilton Companies LLC

The State Water Control Board proposes to issue a consent special order to The Wilton Companies to resolve certain alleged violations of environmental laws and regulations occurring at the proposed shopping center, John Rolfe Commons located in Henrico County, Virginia. The proposed order requires The Wilton Companies to purchase the required wetland mitigation credits, submit to DEQ documentation that the USACE has debited the required credits for the mitigation bank, and the payment of a civil charge.

On behalf of the State Water Control Board, the Department of Environmental Quality will receive for 30 days from the date of publication of this notice written comments relating to the proposed consent special order. Comments should be addressed to Cynthia Akers, Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia 23060; or sent to the e-mail address of eakers@deq.state.va.us. All comments received by e-mail must include your name, address and phone number. A copy of the order may be obtained in person or by mail from the above office.

Proposed Consent Special Order Highland Oil Co., Inc.; Maury River Oil Co., Inc.; Reynolds Chevron, Inc.; and Energy Marketing Corporation

The State Water Control Board proposes to take an enforcement action against Highland Oil Company, Inc., Maury River Oil Co., Inc., Reynolds Chevron, Inc., and Energy Marketing Corporation. The companies have agreed to the terms of a consent special order to address violations of the State Water Control Law and regulations at nine facilities owned by Lawrence Watson under the above corporate

names in the Counties of Augusta, Highland, and Rockbridge, and the cities of Lexington and Lynchburg. Facilities covered by the order include the Highland Oil Bulk Plant, East Lexington Store, Energy Marketing t/a Williams Oil Company, Kerr's Creek General Store, Maury River Oil Company AST facility, Reynolds Chevron AST and UST facilities, Riverside Auto Clinic, and 3-B BP Station. Violations include the failure to take actions necessary to upgrade facilities to meet the December 22, 1998, deadline for underground storage tank compliance, failure to meet regulatory requirements for aboveground storage tank compliance, failure to properly respond to releases of petroleum from tank systems, and late submittal of financial responsibility demonstrations.

To settle these violations, the companies have agreed to a schedule of corrective action at the facilities. The companies have also agreed to pay civil charges for the violations. The order also contains supplemental environmental projects for Energy Marketing Corporation, Maury River Oil Company, and Reynolds Chevron.

The board will receive written comments relating to the proposed consent special order for 30 days from the date of publication of this notice. Comments should be addressed to Elizabeth V. Scott, Department of Environmental Quality, P.O. Box 3000, Harrisonburg, VA 22801, and should refer to the consent special order. Comments may also be submitted via electronic mail to evscott@deq.state.va.us. In order to be considered, electronic comments must be received prior to the close of the comment period and must include the name, address, and telephone number of the person making the comment.

The proposed order may be examined at the Department of Environmental Quality, Valley Regional Office, 4411 Early Road, Harrisonburg, Virginia 22801. A copy of the order may be obtained in person or by mail from this office, or may be viewed on DEQ's website at <http://www.deq.state.va.us/enforcement/notices.html>.

Proposed Consent Special Order Ladd Convenience Center, Inc.

The State Water Control Board proposes to enter into a consent special order with Ladd Convenience Center, Inc. The parties have agreed to the terms of a consent special order for settlement of violations of State Water Control Law at an underground storage tank (UST) facility.

Ladd Convenience owns a UST facility located at 4633 Stuarts Draft Highway in Waynesboro, Virginia. Ladd Convenience stores petroleum in these USTs under the requirements of the state underground storage tank regulations. Based on an inspection of the facility and review of submitted documentation, DEQ found Ladd Convenience to be in violation of the regulation. The proposed order will assess a civil charge against Ladd Convenience in settlement of the violations.

The board will receive written comments relating to the proposed order for 30 days from the date of publication of this notice. Comments should be addressed to David C. Robinett, Department of Environmental Quality, P.O. Box 3000,

Harrisonburg, VA 22801, and should refer to the order. The proposed order may be examined at the Department of Environmental Quality, Valley Regional Office, 4411 Early Road, Harrisonburg, Virginia. A copy of the order may be obtained in person or by mail from the DEQ office.

Comments may also be submitted via electronic mail to dcrobinett@deq.state.va.us. In order to be considered, electronic comments must be received prior to the close of the comment period and must include the name, address and telephone number of the person making the comment.

Proposed Consent Special Orders
Royster-Clark, Inc.
City of Portsmouth Regarding the Lake Kilby Water
Treatment Facility
Delaware Cornerstone Builders, Inc.
City of Hampton and Hampton Roads Sanitation
District
Commercial Ready Mix Products, Inc.

The State Water Control Board proposes to take enforcement actions against the legal entities listed above for violations that occurred in the following municipalities:

Chesapeake: Royster-Clarke, Inc.
Suffolk: City of Portsmouth regarding the Lake Kilby Water Treatment facility
Hampton: City of Hampton and Hampton Roads Sanitation District
York County: Delaware Cornerstone Builders, Inc.
Franklin: Commercial Ready Mix Products, Inc.

The proposed enforcement actions are consent special orders that will require corrective actions or the payment of civil charges, or both, to settle violations of the Virginia Water Control Law.

The Department of Environmental Quality will receive written comments relating to the board's proposed consent special orders from July 29, 2002, through August 29, 2002. Comments should be addressed to David S. Gussman, Department of Environmental Quality - Tidewater Regional Office, 5636 Southern Boulevard, Virginia Beach, VA 23462 and should refer to one of the orders specified above. Comments may also be submitted by e-mail to dsgussman@deq.state.va.us. In order for email comments to be considered, they must include the sender's name, address and phone number. The proposed order may be examined at the above address and copies of the order may be obtained in person, by mail or by e-mail.

Proposed Consent Special Order
Town of Blackstone

The Department of Environmental Quality/State Water Control Board and the Town of Blackstone have agreed to a Consent Special Order in settlement of a civil enforcement action under the Virginia State Water Control Law permit regulation, 9 VAC 25-31, regarding the wastewater treatment plant owned by the town. The department will consider written comments relating to this order for 30 days, until 5 p.m. on August 29, 2002.

Comments must include name, address, and telephone number and can be e-mailed to hfwaggoner@deq.state.va.us or mailed to Harry F. Waggoner, DEQ – South Central Regional Office, 7705 Timberlake Road, Lynchburg, Virginia 24502.

The order is available at www.deq.state.va.us/enforcement/notices.html and at the above office during regular business hours. You may request copies from Mr. Waggoner at (434) 582-5120.

Proposed Consent Special Order
The Town of Mt. Jackson

The State Water Control Board proposes to enter into a Consent Special Order with the Town of Mt. Jackson, Virginia (Mt. Jackson). The parties have agreed to the terms of a Consent Special Order for settlement of violations of State Water Control Law at the Mt. Jackson sewage treatment plant (STP).

Mt. Jackson operates a municipal STP under a VPDES Permit authorizing discharge of treated sewage into the North Fork Shenandoah River. Based on inspections of the STP, staff observed that the STP had caused an accumulation of solids (sludge blanket) in the North Fork Shenandoah River in violation of State Water Control Law. Mt. Jackson has taken action to remove the sludge blanket. The proposed order incorporates a plan of action to prevent recurrence of the violation. The proposed order would also assess a civil charge against Mt. Jackson in settlement of the violations. Under the proposed order Mt. Jackson would also complete a Supplemental Environmental Project (SEP) as a partial offset of the civil charge. The SEP involves paving a portion of the access road at the STP complex to control fugitive dust emissions.

The board will receive written comments relating to the proposed order for 30 days from the date of publication of this notice. Comments should be addressed to Edward A. Liggett, Department of Environmental Quality, P.O. Box 3000, Harrisonburg, VA 22801, and should refer to the order. The proposed order may be examined at the Department of Environmental Quality, Valley Regional Office, 4411 Early Road, Harrisonburg, Virginia. A copy of the order may be obtained in person or by mail from the DEQ office.

Comments may also be submitted via electronic mail to ealiggett@deq.state.va.us. In order to be considered, electronic comments must be received prior to the close of the comment period and must include the name, address and telephone number of the person making the comment.

VIRGINIA CODE COMMISSION

Notice to State Agencies

Mailing Address: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219, FAX (804) 692-0625.

General Notices/Errata

Forms for Filing Material for Publication in *The Virginia Register of Regulations*

All agencies are required to use the appropriate forms when furnishing material for publication in the Virginia Register of Regulations. The forms may be obtained from: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

Internet: Forms and other Virginia Register resources may be printed or downloaded from the Virginia Register web page: <http://legis.state.va.us/codecomm/register/regindex.htm>

FORMS:

NOTICE of INTENDED REGULATORY ACTION - RR01
NOTICE of COMMENT PERIOD - RR02
PROPOSED (Transmittal Sheet) - RR03
FINAL (Transmittal Sheet) - RR04
EMERGENCY (Transmittal Sheet) - RR05
NOTICE of MEETING - RR06
AGENCY RESPONSE TO LEGISLATIVE OBJECTIONS - RR08
PETITION FOR RULEMAKING - RR13

ERRATA

STATE AIR POLLUTION CONTROL BOARD

Title of Regulation: **9 VAC 5-80. Permits for Stationary Sources (Revision YY).**

Publication: 18:20 VA.R. 2585-2612 June 17, 2002.

Correction to Final Regulation:

Page 2602, 9 VAC 5-80-1250 A 2, line 2, after "operating under the" delete "general"

Title of Regulation: **9 VAC 5-91. Regulations for the Control of Motor Vehicle Emissions in the Northern Virginia Area.**

Publication: 18:20 VA.R. 2612-2652 June 17, 2002.

Correction to Final Regulation:

Page 2640, 9 VAC 5-91-680 D 3, line 4, change "8521(b)(10)(i) and (ii)(C)" to "85.2 (b) (10) (i)"

Page 2640, 9 VAC 5-91-680 D 4, last line, strike "§ 85.1(c)(9) and"

STATE CORPORATION COMMISSION

Title of Regulation: **20 VAC 5-312. Rules Governing Retail Access to Competitive Energy Services.**

Publication: 17:22 VA.R. 3348-3364 July 16, 2001

Correction to Final Regulation:

Page 3361, in 20 VAC 5-312-90 C 4, lines 3 and 4, after "provider" strike "or aggregator"

Page 3362, in 20 VAC 5-312-90 I 3, line 7, between "each" and "these" insert "or"

Page 3363, in 20 VAC 5-312-90 M, lines 5 and 6, after "providers" strike "or aggregators"

REGISTRAR'S NOTICE: Since the above corrections to the final regulatory action published in 2001 (17:22 VA.R. 3348-3364 July 16, 2001) affect the text in the proposed regulatory action published in June 2002 (18:20 VA.R. 2579-2582 June 17, 2002), the final action taken on this chapter will reflect these corrections.

Title of Regulation: **20 VAC 5-312. Rules Governing Retail Access to Competitive Energy Services.**

Publication: 18:20 VA.R. 2579-2582 June 17, 2002

Correction to Proposed Regulation:

Page 2581, in 20 VAC 5-312-90 H 2, line 2, after "utility" insert "consumer"

VIRGINIA RACING COMMISSION

Title of Regulation: **11 VAC 10-100. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering: Horses.**

Publication: 18:21 VA.R. 2729-2731 July 1, 2002

Correction to the proposed regulation:

Page 2731, 11 VAC 10-100-150, change number "4" to subsection "D"

Title of Regulation: **11 VAC 10-150. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering: Harness Racing.**

Publication: 18:21 VA.R. 2738-2739 July 1, 2002

Correction to the proposed regulation:

Page 2739, 11 VAC 10-150-130 B, line 11, change "judges" to "stewards"

CALENDAR OF EVENTS

Symbol Key

- Location accessible to persons with disabilities
 Teletype (TTY)/Voice Designation

NOTICE

Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the *Virginia Register* deadline may preclude a notice of such cancellation. If you are unable to find a meeting notice for an organization in which you are interested, please check the Commonwealth Calendar at www.vipnet.org or contact the organization directly.

For additional information on open meetings and public hearings held by the standing committees of the legislature during the interim, please call Legislative Information at (804) 698-1500 or Senate Information and Constituent Services at (804) 698-7410 or (804) 698-7419/TTY , or visit the General Assembly web site's Legislative Information System (<http://leg1.state.va.us/lis.htm>) and select "Meetings."

VIRGINIA CODE COMMISSION

EXECUTIVE

BOARD OF ACCOUNTANCY

NOTE: CHANGE IN MEETING TIME

August 28, 2002 - 10 a.m. -- Open Meeting

Virginia Board of Accountancy, 3600 West Broad Street, Suite 696, Richmond Virginia. (Interpreter for the deaf provided upon request)

The Enforcement Committee will review pending complaints, discuss mediation and volunteer networking. Public comment will not be received.

Contact: Nancy Taylor Feldman, Executive Director, Board of Accountancy, 3600 W. Broad St., Suite 696, Richmond, VA 23230-4916, telephone (804) 367-8505, FAX (804) 367-2174, (804) 367-9753/TTY , e-mail boa@boa.state.va.us.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Virginia Egg Board

August 21, 2002 - 7 p.m. -- Open Meeting

Hotel Roanoke and Conference Center, Roanoke, Virginia. (Interpreter for the deaf provided upon request)

A meeting to review financial statements, educational, promotional and research programs. Proposals for future programs will be discussed.

Contact: Cecilia Glembocki, Secretary, Virginia Egg Board, 911 Saddleback Court, McLean, VA 22102, telephone (703) 790-1984, FAX (703) 821-6748, toll-free (800) 779-7759, e-mail virginiaeggccouncil@erols.com.

Virginia Irish Potato Board

† August 19, 2002 - 7 p.m. -- Open Meeting

Sunset Beach Inn, Kiptopeake, Virginia.

A meeting to discuss programs involving promotion, research, and education. In addition, the annual budget and

the board's financial statement will be reviewed and the board will entertain any other business that may come before it. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact Butch Nottingham at least five days before the meeting date so that suitable arrangements can be made.

Contact: Butch Nottingham, Program Director, Department of Agriculture and Consumer Services, P.O. Box 26, Onley, VA 23418, telephone (757) 787-5867, FAX (757) 787-5973.

Virginia Soybean Board

August 9, 2002 - 3 p.m. -- Open Meeting

Corbin Hall, 2936 Corbin Hall Drive, Waterview, Virginia.

A meeting to discuss checkoff revenues and the financial status of the board following the end of the fiscal year ending June 30, 2002, and hear and approve the minutes of the March 7, 2002, meeting. Reports will be heard from the chairman, from United Soybean Board representatives, and from other counties. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodation in order to participate at the meeting should contact Philip T. Hickman at least five days before the meeting date so that suitable arrangements can be made.

Contact: Philip T. Hickman, Program Director, Department of Agriculture and Consumer Services, 1100 Bank St., Room 1005, Richmond, VA 23219, telephone (804) 371-6157, FAX (804) 371-7786.

STATE AIR POLLUTION CONTROL BOARD

† August 13, 2002 - 10 a.m. -- Public Hearing

Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, Virginia.

A public hearing on a proposed revision to the Commonwealth of Virginia State Implementation Plan (SIP) under § 110 of the federal Clean Air Act. The hearing will be held to accept testimony concerning the proposed revision.

Calendar of Events

The regulation requires that affected vehicles be presented to emissions inspection stations biennially to receive an emissions inspection. This is accomplished through a network of service stations, repair garages, and other similar facilities that perform the inspections. Vehicles that fail the test are denied motor vehicle registration until inspection has been accomplished. The geographic coverage of the program consists of the counties of Arlington, Fairfax, Loudoun, Prince William, and Stafford; and the cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park. The regulation revision makes a number of amendments to conform to changes in Virginia law and federal regulations, including (i) changing the model year coverage from model year 1968 and newer to a rolling exemption for vehicles 25 years and older and (ii) adding requirements for on-board diagnostics (OBD) testing. The department is seeking comment on the amendments, and on the issue of whether the amendments should be submitted to U.S. Environmental Protection Agency (EPA) as part of the SIP. DEQ will also accept written comments submitted to the contact through August 28, 2002.

Contact: Mary E. Major, State Air Pollution Control Board, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4423, FAX (804) 698-4510, (804) 698-4021/TTY ☎, e-mail mlmajor@deq.state.va.us.

BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS, CERTIFIED INTERIOR DESIGNERS AND LANDSCAPE ARCHITECTS

July 30, 2002 - 9 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting of the Landscape Architects Section to conduct board business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail apelsla@dpor.state.va.us.

July 31, 2002 - 9 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting of the Architects Section to conduct board business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The

department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail apelsla@dpor.state.va.us.

August 14, 2002 - 9 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting of the Professional Engineers Section to conduct board business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail apelsla@dpor.state.va.us.

August 15, 2002 - 9 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting of the Interior Designer Section to conduct board business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail apelsla@dpor.state.va.us.

September 10, 2002 - 9 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting of the board to conduct board business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.


Contact: Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail apelsla@dpor.state.va.us.

ART AND ARCHITECTURAL REVIEW BOARD


August 2, 2002 - 10 a.m. -- Open Meeting

September 6, 2002 - 10 a.m. -- Open Meeting

October 4, 2002 - 10 a.m. -- Open Meeting


Virginia War Memorial, 601 South Belvidere Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A monthly meeting to review projects submitted by state agencies. AARB submittal forms and submittal instructions can be downloaded by visiting the DGS forms center at www.dgs.state.va.us. Request submittal form DGS-30-905 or submittal instructions form DGS-30-906.


Contact: Richard L. Ford, AIA, Chairman, Art and Architectural Review Board, 1011 E. Main St., Room 221, Richmond, VA 23219, telephone (804) 643-1977, FAX (804) 643-1981, (804) 786-6152/TTY 

ASSISTIVE TECHNOLOGY LOAN FUND AUTHORITY

† August 8, 2002 - 10 a.m. -- Open Meeting


Department of Aging, 1600 Forest Avenue, Suite 102, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A business meeting of the Board of Directors. Public comment is encouraged and will begin at approximately 10:30 a.m. Following the business meeting the board will go into closed session to protect the confidentiality of consumer information while it discusses assistive technology loans and loan applications.


Contact: Shilpa Joshi, Assistive Technology Loan Fund Authority, P.O. Box K091, Richmond, VA 23288, telephone (804) 662-9000, FAX (804) 662-9533, (804) 662-9000/TTY , e-mail loanfund@erols.com.

BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY


August 6, 2002 - 9:30 a.m. -- Public Hearing

Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. 

The board will receive comment on its draft legislative proposals for the 2003 Session of the General Assembly. Please contact the board office for copies of the draft proposals.


Contact: Elizabeth Young, Executive Director, Board of Audiology and Speech-Language Pathology, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9111, FAX (804) 662-9523, (804) 662-7197/TTY , e-mail elizabeth.young@dhp.state.va.us.

August 6, 2002 - 10 a.m. -- Open Meeting


Conference Room 2, 5th Floor, 6606 West Broad Street, Richmond, Virginia. 

Pursuant to its periodic review, the Legislative/Regulatory Committee will develop proposed amendments to regulations for recommendation to the board. Other


regulatory and legislative issues may be considered. Public comment on agenda items will be received at the beginning of the meeting.

Contact: Elizabeth Young, Executive Director, Board of Audiology and Speech-Language Pathology, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9111, FAX (804) 662-9523, (804) 662-7197/TTY , e-mail elizabeth.young@dhp.state.va.us.

August 15, 2002 - 9:30 a.m. -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia. 

A general business meeting, including consideration of legislative proposals and the adoption of proposed amendments pursuant to its periodic review of regulations. Public comment will be received at the beginning of the meeting.

Contact: Elizabeth Young, Executive Director, Board of Audiology and Speech-Language Pathology, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9111, FAX (804) 662-9523, (804) 662-7197/TTY , e-mail elizabeth.young@dhp.state.va.us.

BOARD FOR BARBERS AND COSMETOLOGY

† September 10, 2002 - 9:30 a.m. -- Public Hearing

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

September 27, 2002 - Public comments may be submitted through this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board for Barbers and Cosmetology intends to adopt regulations entitled: **18 VAC 41-10. Public Participation Guidelines**. The purpose of the proposed action is to promulgate guidelines governing public participation.

Statutory Authority: §§ 2.2-4007 and 54.1-201 of the Code of Virginia.

Contact: William H. Ferguson, II, Assistant Director, Board for Barbers and Cosmetology, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8590, FAX (804) 367-6295 or e-mail barbercosmo@dpor.state.va.us.

* * * * *

† September 10, 2002 - 9:30 a.m. -- Public Hearing

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

September 27, 2002 - Public comments may be submitted through this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board for Barbers and Cosmetology intends to adopt regulations entitled: **18 VAC 41-20. Barbering and Cosmetology Regulations**. The proposed regulatory changes will promulgate regulations for the newly combined Board for Barbers and Cosmetology as directed by Acts of Assembly 2000, c. 726, cl.3.; clarify and

Calendar of Events

standardize requirements for licensure; provide for and ensure that health, sanitation standards, and safety are adequate in facilities where barbering and cosmetology are practiced; extend the temporary work permit from 30 to 45 days to allow sufficient time for posting examination scores and avoid interruption of employment, and adjust licensing fees for regulants of the Board for Barbers and Cosmetology.

Statutory Authority: § 54.1-201 of the Code of Virginia.

Contact: William H. Ferguson, II, Assistant Director, Board for Barbers and Cosmetology, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8590, FAX (804) 367-6295 or e-mail barbercosmo@dpor.state.va.us.

BOARD FOR BRANCH PILOTS

July 31, 2002 - 8:30 a.m. -- Open Meeting
Virginia Port Authority, 600 World Trade Center, Norfolk, Virginia. (Interpreter for the deaf provided upon request)

Examinations will be conducted on July 31. Persons desiring to participate in the meetings and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY, e-mail auctioneers@dpor.state.va.us.

August 1, 2002 - 9:30 a.m. -- Open Meeting
Virginia Port Authority, 600 World Trade Center, Norfolk, Virginia. (Interpreter for the deaf provided upon request)

A meeting to conduct board business. Persons desiring to participate in the meetings and requiring special accommodations or interpreter services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY, e-mail auctioneers@dpor.state.va.us.

CEMETERY BOARD

† August 14, 2002 - 9:30 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A business meeting.

Contact: Karen W. O'Neal, Deputy Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804)

367-2475, (804) 367-9753/TTY, e-mail cemetery@dpor.state.va.us.

CHILD DAY-CARE COUNCIL

† August 8, 2002 - 9 a.m. -- Open Meeting
Department of Social Services, Theater Row Building, 730 East Broad Street, Lower Level 1, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to discuss issues and concerns that impact child day centers, camps, school age programs and preschools/nursery schools. Public comment period will be at noon. Please call ahead for possible changes in meeting time.

Contact: Arlene Kasper, Program Development Consultant, Child Day-Care Council, Division of Licensing, 730 E. Broad St. Richmond, VA 23219-1849, telephone (804) 692-1791, FAX (804) 692-2370, (800) 828-1120/TTY

COMMONWEALTH COMPETITION COUNCIL

July 30, 2002 - 2 p.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, Senate Room B, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to elect the chairman and vice-chairman and decide on projects for the 2002-2003 fiscal year.

Contact: Peggy R. Robertson, Commonwealth Competition Council, 1500 E. Franklin St., Richmond, VA 23219, telephone (804) 786-0240, FAX (804) 786-1594, e-mail probertson@ccc.state.va.us.

COMPENSATION BOARD

† August 27, 2002 - 11 a.m. -- Open Meeting
Compensation Board, 202 North 9th Street, 10th Floor, Richmond, Virginia.

A monthly board meeting.

Contact: Cindy P. Waddell, Administrative Staff Assistant, Compensation Board, P.O. Box 710, Richmond, VA 23218, telephone (804) 786-0786, FAX (804) 371-0235, e-mail cwaddell@scb.state.va.us.

BOARD OF CONSERVATION AND RECREATION


† September 6, 2002 - 2 p.m. -- Open Meeting
Belle Isle State Park, 1632 Belle Isle Road, Lancaster, Virginia. (Interpreter for the deaf provided upon request)

A regular business meeting.

Contact: Leon E. App, Acting Deputy Director, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-6124, FAX (804) 786-6141, e-mail leonapp@dcr.state.va.us.

DEPARTMENT OF CONSERVATION AND RECREATION


July 30, 2002 - 9 a.m. -- Open Meeting

Southwest Virginia Museum Historical State Park, 10 West First Street, North, Big Stone Gap, Virginia.  (Interpreter for the deaf provided upon request)

A meeting of the Southwest Virginia Museum Historical State Park Master Plan Advisory Committee to discuss potential park developments to be included in the park master plan.

Contact: Janet H. Blevins, Park Manager, Department of Conservation and Recreation, 10 W. 1st St., North Big Stone Gap, VA 24219, telephone (276) 523-1322, FAX (276) 523-6616, e-mail jblevins@dcr.state.va.us.


† July 31, 2002 - 10 a.m. -- Open Meeting

Cedar Crest Conference Center, Twin Lakes State Park, 788 Twin Lakes Road, Green Bay, Virginia.  (Interpreter for the deaf provided upon request)

The Sailors Creek Battlefield Historic State Park Master Plan Technical Advisory Committee will discuss development of park master plan concepts.

Contact: Richard G. Gibbons, Environmental Program Manager, Department of Conservation and Recreation, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-4132, FAX (804) 371-7899, e-mail rgibbons@dcr.state.va.us.


July 31, 2002 - 7 p.m. -- Open Meeting

Cumberland County Public Library, 1539 Anderson Highway, Cumberland, Virginia.  (Interpreter for the deaf provided upon request)

The final public meeting of the Bear Creek Lake State Park Master Plan Advisory Committee. The draft of the new Bear Creek Lake State Park Master Plan will be discussed and public comment will be received.

Contact: Derral Jones, Planning Bureau Manager, Department of Conservation and Recreation, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-9042, FAX (804) 371-7899, e-mail djones@dcr.state.va.us.


† August 7, 2002 - 7 p.m. -- Open Meeting

Gunston Hall, 10709 Gunston Road, Mason Neck, Virginia.  (Interpreter for the deaf provided upon request)

Discussion will be on the preparation of the park master plan and potential future developments at Mason Neck. Requests for an interpreter for the deaf should be filed two weeks prior to the meeting.

Contact: John R. Davy, Division Director, Planning and Recreation Resources, Department of Conservation and Recreation, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-1119, FAX (804) 371-7899, e-mail jdavy@dcr.state.va.us.


† August 8, 2002 - 7 p.m. -- Open Meeting

Cedar Crest Conference Center, Twin Lakes State Park, 788 Twin Lakes Road, Green Bay, Virginia.  (Interpreter for the deaf provided upon request)

Discussion will be on the preparation of the park master plan and potential future developments at Sailors Creek. Requests for an interpreter for the deaf should be filed two weeks prior to the meeting.

Contact: Richard Gibbons, Environmental Program Manager, Department of Conservation and Recreation, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-4132, FAX (804) 371-7899, e-mail rgibbons@dcr.state.va.us.

† August 15, 2002 - 7 p.m. -- Open Meeting


Mary Bethune Complex, Cowford Road, Halifax, Virginia.  (Interpreter for the deaf provided upon request)

The final meeting of the Staunton River State Park master planning process. The draft of the new plan will be discussed and public comment will be received. Requests for interpreter services for the deaf must be received two weeks prior to the meeting.


Contact: Robert S. Munson, Environmental Program Manager, Department of Conservation and Recreation, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-6140, FAX (804) 371-7899, e-mail rmunson@dcr.state.va.us.

BOARD FOR CONTRACTORS


† August 7, 2002 - 10 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular meeting to consider items of interest relating to the tradesmen/backflow workers and other appropriate matters pertaining to the Tradesman Section of the Board for Contractors.

Contact: Eric L. Olson, Assistant Director, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-6166, FAX (804) 367-2474, (804) 367-9753/TTY , e-mail olsone@dpor.state.va.us.

August 21, 2002 - 2 p.m. -- Public Hearing

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

August 30, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board for Contractors is amending regulations entitled: **18 VAC 50-22. Board for Contractors Regulations;** and **18 VAC 50-30. Tradesman Rules and Regulations.** The purpose of the proposed action is to increase the licensing fees for contractors and tradesmen.

Statutory Authority: §§ 54.1-113 and 54.1-201 of the Code of Virginia.

Contact: Eric L. Olson, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St.,

Calendar of Events

Richmond, VA 23230-4917, telephone (804) 367-2785, FAX (804) 367-2474, (804) 367-9753/TTY ☎, e-mail contractors@dpor.state.va.us.

DEPARTMENT FOR THE DEAF AND HARD-OF-HEARING

August 2, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department for the Deaf and Hard-of-Hearing is amending regulations entitled: **22 VAC 20-20. Regulations Governing Eligibility Standards and Application Procedures of the Distribution of Technological Assistive Devices.** The purpose of the proposed actin is to add a requirement for program participants to provide proof of income and proof of residency. In addition, definitions and language will be updated for accuracy and clarify.

Statutory Authority: § 63.1-85.4 of the Code of Virginia.

Contact: Leslie G. Hutcheson, Regulatory Coordinator, Department for the Deaf and Hard-of-Hearing, 1602 Rolling Hills Dr., Suite 203, Richmond, VA 23229-5012, telephone (804) 662-9703, FAX (804) 662-9718 or e-mail hutchelg@ddhh.state.va.us.

† **August 7, 2002 - 9:30 a.m.** -- Open Meeting
Department for the Deaf and Hard-of-Hearing, 1602 Rolling Hills Drive, 2nd Floor Conference Room, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular meeting.

Contact: Leslie Hutcheson, Policy and Planning Manager, Department for the Deaf and Hard-of-Hearing, 1602 Rolling Hills Dr., Suite 203, Richmond, VA 23229-5012, telephone (804) 662-9502, FAX (804) 662-9718, toll-free (800) 552-7917, (804) 662-9502/TTY ☎, e-mail hutchelg@ddhh.state.va.us.

BOARD OF DENTISTRY

August 2, 2002 - 1:30 p.m. -- Public Hearing
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. ♿

September 13, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Dentistry intends to amend regulations entitled: **18 VAC 60-20. Regulations Governing the Practice of Dentistry and Dental Hygiene.** The purpose of the proposed action is to increase certain fees charged to applicants and licensed dentists and dental hygienists.

Statutory Authority: §§ 54.1-113 and 54.1-2400 of the Code of Virginia.

Public comments may be submitted until September 13, 2002, to Sandra K. Reen, Executive Director, Board of Dentistry, 6606 West Broad Street, Richmond, VA 23230.

Contact: Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.state.va.us.

Informal Conference Committee

August 2, 2002 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. ♿

A meeting to discuss disciplinary matters. Public comments will not be received.

Contact: Cheri Emma-Leigh/Senita Booker, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9906, FAX (804) 662-7246, (804) 662-7197/TTY ☎, e-mail denbd@dhp.state.va.us.

Special Conference Committee

August 23, 2002 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. ♿

A panel of the board will convene an informal hearing to inquire into allegations that a certain practitioner may have violated laws governing the practice of dentistry. The panel will meet in open and closed sessions. Public comment will not be received.

Contact: Cheri Emma-Leigh, Operations Manager, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9906, FAX (804) 662-7246, (804) 662-7197/TTY ☎, e-mail denbd@dhp.state.va.us.


DESIGN-BUILD/CONSTRUCTION MANAGEMENT REVIEW BOARD

August 15, 2002 - 11 a.m. -- Open Meeting
September 19, 2002 - 11 a.m. -- Open Meeting
† **October 17, 2002 - 11 a.m.** -- Open Meeting
Virginia War Memorial, 601 South Belvidere Street, Auditorium, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting to review requests submitted by localities to use design-build or construction management-type contracts. Contact the Division of Engineering and Buildings to confirm the meeting. Board rules and regulations can be obtained online at www.dgs.state.va.us under the DGS Forms, Form DGS-30-904.

Contact: Freddie M. Adcock, Administrative Assistant, Department of General Services, 805 E. Broad St., Room 101, Richmond, VA 23219, telephone (804) 786-3263, FAX (804) 371-7934, (804) 786-6152/TTY ☎, e-mail fadcock@dgs.state.va.us.

BOARD OF EDUCATION

August 28, 2002 - 9 a.m. -- Open Meeting
September 11, 2002 - 9 a.m. -- Open Meeting
 Hilton Garden Hotel at Innsbrook, 4050 Cox Road, Glen Allen, Virginia.  (Interpreter for the deaf provided upon request)

A work session of the Committee to Enhance the K-12 Teaching Professions; public comment will not be received. Persons requesting the services of an interpreter for the deaf should do so in advance.

Contact: Dr. Margaret N. Roberts, Office of Policy and Public Affairs, Department of Education, P.O. Box 2120, James Monroe Bldg., 101 N. 14th St., 25th Floor, Richmond, VA 23219, telephone (804) 225-2540, FAX (804) 225-2524, e-mail mroberts@mail.vak12ed.edu.


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September 2, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Education is amending regulations entitled: **8 VAC 20-440. Regulations Governing the Employment of Professional Personnel.** The purpose of the proposed action is to amend and clarify the "breach of contract" provision in the regulation.

Statutory Authority: §§ 22.1-16 and 22.1-302 of the Code of Virginia.


Contact: Dr. Thomas Elliott, Assistant Superintendent, Department of Education, P.O. Box 2120, Richmond, VA 23218, telephone (804) 225-2924, FAX (804) 225-2524 or e-mail telliott@mail.vak.12ed.edu.

September 26, 2002 - 9 a.m. -- Open Meeting
† October 16, 2002 - 9 a.m. -- Open Meeting
 General Assembly Building, 910 Capitol Square, Senate Room B, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A regular business meeting of the board. Persons who wish to speak or who require the services of an interpreter for the deaf should contact the agency in advance. Public comment will be received.

Contact: Dr. Margaret N. Roberts, Office of Policy and Public Affairs, Department of Education, P.O. Box 2120, James Monroe Bldg., 101 N. 14th St., 25th Floor, Richmond, VA 23219, telephone (804) 225-2540, FAX (804) 225-2524, e-mail mroberts@mail.vak12ed.edu.

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† September 26, 2002 - 1 p.m. -- Public Hearing
 General Assembly Building, 9th and Broad Streets, Senate Room B, Richmond, Virginia. 


October 2, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Education intends to

adopt regulations entitled: **8 VAC 20-650. Regulations Governing the Determination of Critical Teacher Shortage Areas for Awarding the Virginia Teaching Scholarship Loan Program.** The purpose of the proposed action is to collect the supply and demand information from school divisions and provide a reasonable and scientific procedure to identify critical teacher shortage areas in Virginia.

Statutory Authority: § 22.1-290.01 of the Code of Virginia.


Contact: Dr. Thomas Elliott, Assistant Superintendent, Department of Education, P.O. Box 2120, Richmond, VA 23218, telephone (804) 225-2924, FAX (804) 225-2524 or e-mail telliott@mail.vak.12ed.edu.

† October 17, 2002 - 8:30 a.m. -- Open Meeting
† October 18, 2002 - 8:30 a.m. -- Open Meeting
 Radisson Hotel Historic Richmond, 301 West Franklin Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A working session of the State Special Education Advisory Committee. Public comment will not be received. Persons requesting the services of an interpreter for the deaf should do so in advance.

Contact: Dr. Margaret N. Roberts, Office of Policy and Public Affairs, Department of Education, P.O. Box 2120, James Monroe Bldg., 101 N. 14th St., 25th Floor, Richmond, VA 23219, telephone (804) 225-2540, FAX (804) 225-2524, e-mail mroberts@mail.vak12ed.edu.

DEPARTMENT OF ENVIRONMENTAL QUALITY


† July 29, 2002 - 2 p.m. -- Open Meeting
 Department of Environmental Quality, West Central Regional Office, 3019 Peters Creek Road, Roanoke, Virginia. 

† July 31, 2002 - 1:30 p.m. -- Open Meeting
 Department of Environmental Quality, Northern Regional Office, 12901 Crown Court, Woodbridge, Virginia.

† August 1, 2002 - 1:30 p.m. -- Open Meeting
 Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia.

A public meeting to receive comment on both the 2002 § 305(b) Water Quality Assessment and the 2002 § 303(d) Report on Impaired Waters.

Contact: Darryl M. Glover, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4116, e-mail dmgllover@deq.state.va.us.

July 31, 2002 - 7 p.m. -- Open Meeting
 Crewe Library and Conference Center, 400 Tyler Street, Crewe, Virginia. 

A public hearing to receive comments on the technical merits of a permit amendment pertaining to the groundwater monitoring plan and program for the Nottoway County Landfill located northeast of intersection of US Route 460 Bypass and State Route 614 in Nottoway County.

Calendar of Events

Contact: Larry Syverson, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4271, e-mail lwsyverson@deq.state.va.us.

July 31, 2002 - 7 p.m. -- Public Hearing
Vinton Library, 800 East Washington Avenue, Vinton, Virginia.

A public hearing to receive comments on the proposed draft RCRA permit modification for site-wide corrective action at the Safety Kleen Corporation Vinton Service Center located in Vinton.

Contact: Dinesh Vithani, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4204, e-mail dkvithani@deq.state.va.us.

August 1, 2002 - 10:30 a.m. -- Open Meeting
Department of Environmental Quality, 629 East Main Street, Meeting Room 3, Richmond, Virginia. ♿

A meeting of the waste discharge subcommittee of the Virginia Recycling Markets Development Council.

Contact: William K. Norris, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4022, e-mail wknorris@deq.state.va.us.

August 6, 2002 - 10 a.m. -- Open Meeting

September 12, 2002 - 10 a.m. -- Open Meeting

October 10, 2002 - 10 a.m. -- Open Meeting

Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia. ♿

A meeting of the water impact study group.

Contact: Allan Brockenbrough, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4147, e-mail abrockenb@deq.state.va.us.

† August 6, 2002 - 7 p.m. -- Public Hearing
Chesapeake Central Library, 298 Cedar Road, Chesapeake, Virginia. ♿

† August 8, 2002 - 7 p.m. -- Public Hearing
Chester Library, 11800 Centre Street, Chester, Virginia. ♿

A public hearing to receive comments on the proposed draft RCRA permit modification for site-wide corrective action at the Safety Kleen Corporation Chesapeake Service Center located in Chesapeake.

Contact: Dinesh Vithani, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4204, e-mail dkvithani@deq.state.va.us.

VIRGINIA FIRE SERVICES BOARD

† August 16, 2002 - 9 a.m. -- Open Meeting
Holiday Inn Hampton Hotel and Conference Center, 1815 West Mercury Boulevard, Hampton, Virginia. ♿ (Interpreter for the deaf provided upon request)

Committees will meet as follows:

Fire Education and Training Committee - 9 a.m.
Administration and Policy Committee - 10 minutes after the conclusion of Fire Education and Training Committee

Fire Prevention and Control Committee - 10 minutes after the conclusion of Administration and Policy Committee
Finance Committee - 10 minutes after the conclusion of Fire Prevention and Control Committee

Contact: Christy L. King, Clerk to the Virginia Fire Services Board, Virginia Fire Services Board, James Monroe Bldg., 101 N. 14th St., 18th Floor, Richmond, VA 23219, telephone (804) 371-0220, FAX (804) 371-0219, e-mail cking@vdfp.state.va.us.

† August 17, 2002 - 9 a.m. -- Open Meeting
Holiday Inn Hampton Hotel and Conference Center, 1815 West Hampton Boulevard, Hampton, Virginia. ♿ (Interpreter for the deaf provided upon request)

The Virginia State Firefighter's Annual Conference. Please contact Christy King for further information.

Contact: Christy L. King, Clerk to the Virginia Fire Services Board, Virginia Fire Services Board, James Monroe Bldg., 101 N. 14th St., 18th Floor, Richmond, VA 23219, telephone (804) 371-0220, FAX (804) 371-0219, e-mail cking@vdfp.state.va.us.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

July 30, 2002 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. ♿

The Special Conference Committee will convene to hear possible violations of the laws and regulations governing the practice of funeral directors and embalmers.

Contact: Elizabeth Young, Executive Director, Board of Funeral Directors and Embalmers, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9907, FAX (804) 662-9523, (804) 662-7197/TTY ☎, e-mail elizabeth.young@dhp.state.va.us.

September 10, 2002 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. ♿

A general business meeting including consideration of legislative, regulatory and disciplinary matters as may be on the agenda. Public comment will be received at the beginning of the meeting.

Contact: Elizabeth Young, Executive Director, Board of Funeral Directors and Embalmers, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9907, FAX (804) 662-9523, (804) 662-7197/TTY ☎, e-mail elizabeth.young@dhp.state.va.us.

† September 10, 2002 - 9 a.m. -- Public Hearing
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. ♿

The board will hear comments on proposed regulations for preneed funeral planning and the resident trainee program.

Contact: Elizabeth Young, Executive Director, Board of Funeral Directors and Embalmers, 6606 W. Broad St., 4th

Floor, Richmond, VA 23230, telephone (804) 662-9907, FAX (804) 662-9523, (804) 662-7197/TTY ☎, e-mail elizabeth.young@dhp.state.va.us.

BOARD OF GAME AND INLAND FISHERIES

August 7, 2002 - 7 p.m. -- Open Meeting

Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A public input meeting to discuss and receive public comments regarding season lengths and bag limits for the 2002-2003 hunting seasons for migratory waterfowl (ducks and coots, geese and brant, swan, gallinules and moorhens) and falconry. All interested citizens are invited to attend. DGIF Wildlife Division staff will discuss the population status of these species, and present hunting season frameworks for them provided by the U.S. Fish and Wildlife Service. The public's comments will be solicited in the public meeting portion of the meeting. A summary of the results of this meeting will be presented to the Virginia Board of Game and Inland Fisheries prior to its scheduled August 22, 2002 meeting. The board will hold another meeting on August 22, after which it intends to set 2002-2003 hunting seasons and bag limits for the above species.

Contact: Phil Smith, Policy Analyst, Department of Game and Inland Fisheries, 4010 W. Broad St., Richmond, VA 23230, telephone (804) 367-1000, FAX (804) 367-0488, e-mail regcomments@dgif.state.va.us.

August 22, 2002 - 9 a.m. -- Open Meeting

Department of Game and Inland Fisheries, 4000 West Broad Street, Richmond Virginia. ♿ (Interpreter for the deaf provided upon request)

A meeting to propose amendments to regulations governing fish and fishing, and wildlife diversity (i.e., wildlife other than in the contexts of hunting, trapping, or fishing). This is the regular biennial review for these regulations, with the resulting amended regulations intended to be in effect 2003 through 2004. The board also intends to propose amendments to regulations governing boating. The board is exempted from the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) in promulgating wildlife management regulations, including the length of seasons, bag limits and methods of take set on the wildlife resources within the Commonwealth of Virginia; the board promulgates boating regulations under the authority of § 29.1-701(E) of the Code of Virginia. Under board procedures, regulatory actions occur over two sequential board meetings. At the August 22 meeting, Department of Game and Inland Fisheries' staff will present recommendations for regulatory amendments, the board will solicit and hear comments from the public in a public hearing, and the board then intends to propose regulations or regulation amendments. Any proposed regulatory actions will be published in the Virginia Register, posted on the Internet at www.dgif.state.va.us, and advertised in newspapers. The board is required by § 2.2-4031 of the Code of Virginia to publish all proposed and final regulations. At the August 22, 2002, meeting the board also

will adopt 2002-2003 hunting seasons and bag limits for migratory waterfowl (ducks and coots, geese and brant, swan, gallinules and moorhens) and falconry, based on frameworks provided by the U.S. Fish and Wildlife Service. The Board will solicit and receive comments from the public during the public hearing portion of the meeting for this action. The board also may discuss general and administrative issues; hold a closed session at some time during the August 22 meeting; and elect to hold a dinner Wednesday evening, August 21, 2002, at a location and time to be determined.

Contact: Phil Smith, Policy Analyst, Department of Game and Inland Fisheries, 4010 W. Broad St., Richmond VA 23230, telephone (804) 367-1000, FAX (804) 367-0488, e-mail RegComments@dgif.state.va.us.

CHARITABLE GAMING COMMISSION

† August 22, 2002 - 10 a.m. -- Open Meeting

General Assembly Building, 9th and Broad Streets, House Room C, Richmond, Virginia. ♿

A regular commission meeting. Agenda to be posted at a future date.

Contact: Frances C. Jones, Administrative Staff Assistant, Charitable Gaming Commission, James Monroe Bldg., 101 N. 14th St., 17th Floor, Richmond, VA 23219, telephone (804) 786-3014, FAX (804) 786-1079, e-mail jones@cgic.state.va.us.

BOARD FOR GEOLOGY

August 7, 2002 - 9 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♿

A general board meeting.

Contact: Werner Versch II, Regulatory Boards Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2406, FAX (804) 367-6946, e-mail geology@dpwr.state.va.us.

STATE BOARD OF HEALTH

July 30, 2002 - 10 a.m. -- Public Hearing

Department of Health, 1500 East Main Street, Room 223, Richmond, Virginia.

August 19, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Health intends to adopt regulations entitled: **12 VAC 5-407. Procedures for the Submission of Health Maintenance Organization Quality of Care Data.** The purpose of the proposed action is to adopt regulations to carry out Virginia law, specifically Senate Bill 533 (2000).

Statutory Authority: § 32.1-12 of the Code of Virginia.

Calendar of Events

Contact: Margot Fritts, Office of Health Planning, Department of Health, 1500 E. Main St., Suite 227, Richmond, VA 23219, telephone (804) 692-0808, FAX (804) 371-0116 or e-mail mfritts@vdh.state.va.us.

DEPARTMENT OF HEALTH

† **August 14, 2002 - 10 a.m.** -- Public Hearing
Henrico Government Center, Administration Board Room, Richmond, Virginia.
Franklin County Board Room, 275 South Main Street, 2nd Floor, Franklin, Virginia.


October 1, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Health intends to amend regulations entitled: **12 VAC 5-610. Sewage Handling and Disposal Regulations.** The purpose of the proposed action is to regulate mass sewage disposal systems (systems larger than 1,200 gallons per day per acre) that have a greater potential for failure than domestic and small commercial onsite systems. These large systems also pose a higher risk of ground water contamination than smaller systems. The amendments include standards for proper siting, design, construction, operation, and monitoring of mass sewage disposal systems. A second amendment is to regulate the amount of rock fragments surrounding a subsurface soil absorption system.

Statutory Authority: §§ 32.1-12 and 32.1-164 of the Code of Virginia.

Contact: Donald J. Alexander, Director, Division of Onsite Sewage and Water Services, Department of Health, 1500 E. Main St., Room 115, Richmond, VA 23219, telephone (804) 225-4030, FAX (804) 225-4003 or e-mail dalexander@vdh.state.va.us.


HOPEWELL INDUSTRIAL SAFETY COUNCIL

August 6, 2002 - 9 a.m. -- Open Meeting
September 3, 2002 - 9 a.m. -- Open Meeting
Hopewell Community Center, 100 West City Point Road, Hopewell, Virginia.  (Interpreter for the deaf provided upon request)

The Local Emergency Preparedness Committee will meet as required by SARA Title III.

Contact: Robert Brown, Emergency Services Coordinator, Hopewell Industrial Safety Council, 300 N. Main St., Hopewell, VA 23860, telephone (804) 541-2298.


STATE LAND EVALUATION ADVISORY COUNCIL

August 8, 2002 - 10 a.m. -- Open Meeting
† **September 5, 2002 - 10 a.m.** -- Open Meeting
Department of Taxation, Richmond District Office, 1708 Commonwealth Avenue, Richmond, Virginia. 

A meeting to adopt suggested ranges of values for agricultural, horticultural, forest and open space land use and the use-value assessment program.

Contact: Keith Mawyer, Property Tax Manager, Virginia Department of Taxation, 2220 W. Broad St., Richmond, VA 23220, telephone (804) 367-8020.

STATE LIBRARY BOARD


September 23, 2002 - 8:15 a.m. -- Open Meeting
The Library of Virginia, 800 East Broad Street, Richmond, Virginia. 

Meetings of the board to discuss matters pertaining to the Library of Virginia and the board. Committees of the board will meet as follows:


8:15 a.m. - Public Library Development Committee, Orientation Room;
Publications and Educational Services Committee, Conference Room B;
Records Management Committee, Conference Room C.

9:30 a.m. - Archival and Information Services Committee, Orientation Room;
Collection Management Services Committee, Conference Room B;
Legislative and Finance Committee, Conference Room C.


10:30 a.m. - Library Board, Conference Room 2M.

Contact: Jean H. Taylor, Executive Secretary to the Librarian, The Library of Virginia, 800 E. Broad St., Richmond, VA 23219-2000, telephone (804) 692-3535, FAX (804) 692-3594, (804) 692-3976/TTY , e-mail jtaylor@lva.lib.va.us.


COMMISSION ON LOCAL GOVERNMENT

July 29, 2002 - 10 a.m. -- Open Meeting
900 E. Main Street, Suite 103, Richmond, Virginia. 
(Interpreter for the deaf provided upon request)


Regular meeting of the Commission on Local Government to consider such matters as may be presented.

Contact: Barbara W. Bingham, Administrative Assistant, 900 E. Main Street, Suite 103, Richmond, VA 23219-3513, telephone (804) 786-6508, FAX (804) 371-7999, (800) 828-1120/TTY , e-mail bbingham@clg.state.va.us.

MARINE RESOURCES COMMISSION

August 27, 2002 - 9:30 a.m. -- Open Meeting
September 24, 2002 - 9:30 a.m. -- Open Meeting
Marine Resources Commission, 2600 Washington Avenue, 4th Floor, Newport News, Virginia. 

A monthly commission meeting.

Contact: Stephanie Montgomery, Commission Secretary, Marine Resources Commission, 2600 Washington Ave., Suite 107, Newport News, VA 23607, telephone (757) 247-8088, FAX (757) 247-2020, toll-free (800) 541-4646, (757) 247-2292/TTY , e-mail smont@mrcc.state.va.us.

BOARD OF MEDICAL ASSISTANCE SERVICES

October 8, 2002 - 10 a.m. -- Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Board Room, Richmond, Virginia. ☎

A routine business meeting. An agenda will be posted closer to the meeting date.

Contact: Leah Hamaker, Communications Office, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-4626, FAX (804) 371-4981, (800) 343-0634/TTY ☎, e-mail lhamaker@dmass.state.va.us.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

August 16, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Department of Medical Assistance Services intends to amend regulations entitled: **12 VAC 30-120. Waivered Services Medallion II.** The purpose of the proposed action is to promulgate changes to Medallion II regulations to provide for three issues: one managed care organization in a region; preassignment process; and limit time enrollees have to select a primary care physician.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Public comments may be submitted until August 16, 2002, to Adrienne Fegans, Manager, Division of Managed Care, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7959 or FAX (804) 786-1680.

Medicaid Drug Utilization Review (DUR) Board

August 8, 2002 - 2 p.m. -- Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Board Room, Richmond, Virginia. ☎

A meeting to conduct routine business.

Contact: Marianne Rollings, Pharmacist, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300 Richmond, VA 23219, telephone (804) 225-4268, FAX (804) 786-1680, (800) 343-0634/TTY ☎, e-mail mrollings@dmass.state.va.us.

BOARD OF MEDICINE

August 2, 2002 - 8 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia.

A meeting of the Executive Committee will be held in open and closed session to review disciplinary files requiring administrative action, adopt amendments and approve for

promulgation regulations as presented, interview applicants, and act on other issues that come before the board. The chairman will entertain public comments on agenda items for 15 minutes following adoption of the agenda.

Contact: William L. Harp, M.D., Executive Director, Board of Medicine, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908, FAX (804) 662-9943, (804) 662-7197/TTY ☎, e-mail wharp@dhp.state.va.us.

August 2, 2002 - 1 p.m. -- Open Meeting

August 7, 2002 - 1 p.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia.

A meeting of the Credentials Committee will be held in open and closed session to conduct general business, interview and review medical credentials of applicants applying for licensure in Virginia, and to discuss any other items that may come before the committee.

Contact: William L. Harp, MD, Executive Director, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-7423, FAX (804) 662-9517, (804) 662-7197/TTY ☎

† October 2, 2002 - 8:45 a.m. -- Open Meeting

Department of Health Professions, 6606 West Broad Street, Richmond, Virginia. ☎

A panel of the board will convene a formal hearing to inquire into allegations that a practitioner may have violated laws governing the practice of medicine. The panel will meet in open and closed sessions pursuant to the Code of Virginia. Public comment will not be received.

Contact: Peggy Sadler/Renee Dixon, Staff, Board of Medicine, 6606 W. Broad St., Richmond, VA, 23230, telephone (804) 662-7332, FAX (804) 662-9517, (804) 662-7197/TTY ☎, e-mail peggy.sadler@dhp.state.va.us.

Informal Conference Committee

July 31, 2002 - 8:45 a.m. -- Open Meeting
Clarion Hotel, 3315 Ordway Drive, Roanoke, Virginia.

August 15, 2002 - 9 a.m. -- Open Meeting

† September 17, 2002 - 9 a.m. -- Open Meeting
Holiday Inn Select, 2801 Plank Road, Fredericksburg, Virginia. ☎

August 21, 2002 - 9:30 a.m. -- Open Meeting

September 18, 2002 - 8:45 a.m. -- Open Meeting
Williamsburg Marriott Hotel, 50 Kingsmill Road, Williamsburg, Virginia.

August 2, 2002 - 1 p.m. -- Open Meeting

† August 7, 2002 - 8:45 a.m. -- Open Meeting

September 4, 2002 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, Richmond, Virginia.

A meeting to inquire into allegations that certain practitioners may have violated laws and regulations governing the practice of medicine and other healing arts in

Calendar of Events

Virginia. The committee will meet in open and closed sessions pursuant to the Code of Virginia. Public comment will not be received.

Contact: Peggy Sadler or Renee Dixon, Staff, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-7332, FAX (804) 662-9517, (804) 662-7197/TTY ☎, e-mail Peggy.Sadler@dhp.state.va.us.

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

† **July 31, 2002 - 10 a.m.** -- Open Meeting
The Columbian Center, 2324 Pump Road, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

The first meeting of the Olmstead Task Force as required under Item 329M of the 2002 Appropriation Act.

Contact: Fran M. Sadler, Administrative Specialist, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218, telephone (804) 786-8019, FAX (804) 786-9248, (804) 371-8977/TTY ☎, e-mail fsadler@dmhmrsas.state.va.us.

STATE MILK COMMISSION

August 28, 2002 - 10:30 a.m. -- Open Meeting
Department of Forestry, 900 Natural Resources Drive, Room 2063, Charlottesville, Virginia. ♿

A regular meeting to consider industry issues, distributor licensing, base transfers, and reports from staff. The commission offers anyone in attendance an opportunity to speak at the conclusion of the agenda. Those persons requiring special accommodations should notify the agency meeting contact at least five working days prior to the meeting date so that suitable arrangements can be made.

Contact: Edward C. Wilson, Jr., Deputy Administrator, State Milk Commission, 9th St. Office Bldg., 202 N. Ninth St., Room 915, Richmond, VA 23219, telephone (804) 786-2013, FAX (804) 786-3779, e-mail ewilson@smc.state.va.us.

DEPARTMENT OF MOTOR VEHICLES

August 8, 2002 - 9 a.m. -- Open Meeting
October 10, 2002 - 9 a.m. -- Open Meeting
Department of Motor Vehicles, 2300 West Broad Street, Room 702, Richmond, Virginia. ♿

A meeting of the Digital Signature Implementation Workgroup. Meetings will be held on the second Thursday of every other month from 9 a.m. until noon at the location noted above unless otherwise noted. The room will be open for coffee and pre-session business at 8:30 a.m.; the business session will begin at 9 a.m.

Contact: Vivian Cheatham, Executive Staff Assistant, Department of Motor Vehicles, 2300 W. Broad St., Richmond, VA 23220, telephone (804) 367-6870, FAX (804) 367-6631, toll-free (866) 68-5463, e-mail dmvvr@dmv.state.va.us.

August 14, 2002 - 8 a.m. -- Open Meeting
Department of Motor Vehicles, 2300 West Broad Street, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular business meeting of the Medical Advisory Board.

Contact: J. C. Branche, Assistant Division Manager, Department of Motor Vehicles, 2300 West Broad Street, Richmond VA 23220, telephone (804) 367-0531, FAX (804) 367-1604, toll-free (800) 435-5137, (800) 272-9268/TTY ☎, e-mail dmvj3b@dmv.state.va.us.

VIRGINIA MUSEUM OF FINE ARTS

July 30, 2002 - 2:30 p.m. -- Open Meeting
Virginia Museum of Fine Arts, CEO Building Parlor, 2800 Grove Avenue, Richmond, Virginia. ♿

A regular meeting of the Museum Expansion Committee. Most of the meeting will be held in closed session. Public comment will not be received.

Contact: Suzanne Broyles, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 340-1503, FAX (804) 340-1502, (804) 340-1401/TTY ☎, e-mail sbroyles@vmfa.state.va.us.

† **July 31, 2002 - 9 a.m.** -- Open Meeting
Virginia Museum of Fine Arts, CEO Building Parlor, 2800 Grove Avenue, Richmond, Virginia. ♿

A meeting to plan financing for the expansion and renovation. Public comment will not be received. Most of the meeting will be held in closed session.

Contact: Suzanne Broyles, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221, telephone (804) 340-1503, FAX (804) 340-1502, (804) 340-1401/TTY ☎, e-mail sbroyles@vmfa.state.va.us.

BOARD OF NURSING

August 31, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Nursing intends to amend regulations entitled: **18 VAC 90-50. Regulations Governing the Certification of Massage Therapists.** The purpose of the proposed action is to address concerns about competency of certificate holders by requiring recertification by the National Certification Board for Therapeutic Massage and Bodywork (NCBTMB) or obtaining at least 25 hours of continuing education in the biennium before renewal. The board will also amend regulations to further specify the requirements for licensure by endorsement, to delete outdated "grandfathering" provisions and unnecessary rules for provisional certification, and to incorporate by reference the code of ethics and standards of practice of the NCBTMB.

Statutory Authority: Chapter 30 of Title 54.1 of the Code of Virginia.


Public comments may be submitted until August 30, 2002, to Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 West Broad Street, Richmond, VA 23230.

Contact: Elaine J. Yeatts, Regulatory Coordinator, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9114 or e-mail elaine.yeatts@dhp.state.va.us.


September 23, 2002 - 9 a.m. -- Open Meeting


September 25, 2002 - 9 a.m. -- Open Meeting

September 26, 2002 - 9 a.m. -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. 

A panel of the board will conduct formal hearings with licensees or certificate holders. Public comment will not be received.

Contact: Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY , e-mail nursebd@dhp.state.va.us.

† September 24, 2002 - 1:30 p.m. -- Public Hearing
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. 

The board will receive comments on proposed regulations for advanced certification for nurse aides.

Contact: Nancy K. Durrett, R.N., Executive Director, Board of Nursing, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY , e-mail ndurrett@dhp.state.va.us.

Special Conference Committee

July 30, 2002 - 9 a.m. -- Open Meeting

August 1, 2002 - 9 a.m. -- Open Meeting

August 5, 2002 - 9 a.m. -- Open Meeting

August 6, 2002 - 9 a.m. -- Open Meeting

August 12, 2002 - 9 a.m. -- Open Meeting

August 13, 2002 - 9 a.m. -- Open Meeting

August 29, 2002 - 9 a.m. -- Open Meeting


October 8, 2002 - 9 a.m. -- Open Meeting

October 10, 2002 - 9 a.m. -- Open Meeting


† October 21, 2002 - 9 a.m. -- Open Meeting

† October 22, 2002 - 9 a.m. -- Open Meeting


† October 29, 2002 - 9 a.m. -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. 


A Special Conference Committee, comprised of two or three members of the Virginia Board of Nursing, will conduct informal conferences with licensees or certificate holders. Public comment will not be received.

Contact: Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9909, FAX (804) 662-9512, (804) 662-7197/TTY , e-mail nursebd@dhp.state.va.us.

BOARD OF NURSING HOME ADMINISTRATORS

† October 9, 2002 - 10 a.m. -- Public Hearing
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. 

The board will receive comments about proposed regulations to increase fees charged to nursing home administrators.

Contact: Sandra Reen, Executive Director, Board of Nursing Home Administrators, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-7457, FAX (804) 662-9943, (804) 662-7197/TTY , e-mail sandra_reen@dhp.state.va.us.

BOARDS OF NURSING AND MEDICINE

August 2, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Boards of Nursing and Medicine are amending regulations entitled: **18 VAC 90-40. Regulations for Prescriptive Authority for Nurse Practitioners.** The purpose of the proposed action is to provide less burdensome requirements for site visits and chart reviews by supervising physicians, to make certain changes related to expanded prescriptive authority, and to clarify requirements or terminology that are not easily understood.

Statutory Authority: §§ 54.1-2400 and 54.1-2957.01 of the Code of Virginia.


Public comments may be submitted until August 2, 2002, to Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 West Broad Street, Richmond, VA 23230.

Contact: Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9914 or e-mail elaine.yeatts@dhp.state.va.us.

OLD DOMINION UNIVERSITY


† August 12, 2002 - 3 p.m. -- Open Meeting

† October 21, 2002 - 3 p.m. -- Open Meeting

Webb University Center, Old Dominion University, Norfolk, Virginia.  (Interpreter for the deaf provided upon request)

A regular meeting of the executive committee of the governing board of the institution to discuss business of the board and the institution as determined by the rector and the president.

Contact: Donna Meeks, Executive Secretary to the Board of Visitors, Old Dominion University, 204 Koch Hall, Norfolk, VA 23529, telephone (757) 683-3072, FAX (757) 683-5678, e-mail dmeeks@odu.edu.


† September 13, 2002 - 1:15 p.m. -- Open Meeting
Webb University Center, Old Dominion University, Norfolk, Virginia.  (Interpreter for the deaf provided upon request)

Calendar of Events

A quarterly meeting of the governing board to discuss business of the board and the institution as determined by the rector and the president.

Contact: Donna Meeks, Executive Secretary to the Board of Visitors, Old Dominion University, 204 Koch Hall, Norfolk, VA 23529, telephone (757) 683-3072, FAX (757) 683-5679, e-mail dmeeks@odu.edu.

BOARD FOR OPTICIANS

† **August 2, 2002 - 9:30 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. 

A regular board meeting.

Contact: William H. Ferguson, II, Assistant Director,
Department of Professional and Occupational Regulation,
3600 W. Broad St., Richmond, VA 23230, telephone (804)
367-8590, FAX (804) 367-6295, e-mail
opticians@dpor.state.va.us.

BOARD OF OPTOMETRY

August 16, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Optometry intends to amend regulations entitled: **18 VAC 105-20. Regulations of the Virginia Board of Optometry.** The purpose of the proposed action is to revise certain requirements of licensure by endorsement, to reduce the burden of reinstatement, to add some miscellaneous fees consistent with other boards, and to clarify certain provisions related to the provision of patient records if a practice is to be terminated, and the use of professional designations. The board is recommending several changes in requirements for continuing education including an increase in the number of continuing education hours to the statutory limit of 16 but allowing two of those hours to be in recordkeeping and two in CPR.

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Public comments may be submitted until August 16, 2002, to Elizabeth A. Carter, Ph.D., Executive Director, Board of Optometry, 6606 West Broad Street, Richmond, VA 23230.

Contact: Elaine J. Yeatts, Agency Regulatory Coordinator,
Department of Health Professions, 6606 W. Broad St.,
Richmond, VA 23230, telephone (804) 662-9918, FAX (804)
662-9914 or e-mail elaine.yeatts@dhp.state.va.us.

August 16, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Optometry intends to amend regulations entitled: **18 VAC 105-30. Regulations on Certification of Optometrists to Use Therapeutic**


Pharmaceutical Agents. The purpose of the proposed action is to reduce the burden of reinstating an expired certification, reduce the late renewal fee and add some miscellaneous fees consistent with other boards, and specify that two of the continuing education hours required for renewal of licensure must be directly related to prescribing and administration of prescription drugs.

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Public comments may be submitted until August 16, 2002, to Elizabeth A. Carter, Ph.D., Executive Director, Board of Optometry, 6606 West Broad Street, Richmond, VA 23230.

Contact: Elaine J. Yeatts, Agency Regulatory Coordinator,
Department of Health Professions, 6606 W. Broad St.,
Richmond, VA 23230, telephone (804) 662-9918, FAX (804)
662-9914 or e-mail elaine.yeatts@dhp.state.va.us.

BOARD OF PHARMACY

August 19, 2002 - 9 a.m. -- Public Hearing
Department of Health Professions, 6606 West Broad Street,
5th Floor, Conference Room 2, Richmond, Virginia. 


September 13, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Pharmacy intends to amend regulations entitled: **18 VAC 110-20. Regulations Governing the Practice of Pharmacy.** The purpose of the proposed action is to increase certain fees charged to applicants and licensed pharmacists, permitted pharmacies and other entities.

Statutory Authority: §§ 54.1-113 and 54.1-2400 of the Code of Virginia.

Public comments may be submitted until September 13, 2002, to Elizabeth Scott Russell, Executive Director, Board of Pharmacy, 6606 West Broad Street, Richmond, VA 23230.

Contact: Elaine J. Yeatts, Agency Regulatory Coordinator,
Department of Health Professions, 6606 W. Broad St.,
Richmond, VA 23230, telephone (804) 662-9918, FAX (804)
662-9914 or e-mail elaine.yeatts@dhp.state.va.us.

August 19, 2002 - 9 a.m. -- Public Hearing
Department of Health Professions, 6606 West Broad Street,
5th Floor, Conference Room 2, Richmond, Virginia. 


September 13, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Board of Pharmacy intends to amend regulations entitled: **18 VAC 110-30. Regulations for Practitioners of the Healing Arts to Sell Controlled Substances.** The purpose of the proposed action is to increase certain fees charged to applicants and regulated physicians licensed to sell controlled substances.


Statutory Authority: §§ 54.1-113 and 54.1-2400 of the Code of Virginia.

Public comments may be submitted until September 13, 2002, to Elizabeth Scott Russell, Executive Director, Board of Pharmacy, 6606 West Broad Street, Richmond, VA 23230.


Contact: Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Professions, 6606 W. Broad St., Richmond, VA 23230, telephone (804) 662-9918, FAX (804) 662-9914 or e-mail elaine.yeatts@dhp.state.va.us.

† **August 19, 2002 - 9:15 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. 


A general business meeting including consideration of regulatory and disciplinary items as may be presented on the agenda. Public comment will be received at the beginning of the meeting.

Contact: Elizabeth Scott Russell, R.Ph., Executive Director, Board of Pharmacy, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9911, FAX (804) 662-9313, (804) 662-7197/TTY , e-mail erussell@dhp.state.va.us.

POLYGRAPH EXAMINERS ADVISORY BOARD


September 18, 2002 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting to conduct board business. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to this meeting so that suitable arrangements can be made for an appropriate accommodation. The department fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail polygraph@dpor.state.va.us.

BOARD FOR PROFESSIONAL AND OCCUPATIONAL REGULATION

† **September 20, 2002 - 10 a.m.** -- Public Hearing
Newport News City Council Chamber, City Hall Building, 2400 Washington Avenue, Newport News, Virginia.

† **September 23, 2002 - 11 a.m.** -- Public Hearing
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)


† **October 4, 2002 - 1:30 p.m.** -- Public Hearing
Roanoke City Council Chamber, Noel C. Taylor Municipal Building, 215 Church Avenue, S.W., Roanoke, Virginia.

A public hearing to examine the feasibility and appropriateness of regulating roller skating rinks in Virginia.

The public hearing is being held pursuant to Senate Bill 436 of the 2002 General Assembly Session.

Contact: Karen O'Neal, Deputy Director for Regulatory Programs, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-6946, e-mail BPOR@dpor.state.va.us.


† **September 20, 2002 - 1:30 p.m.** -- Public Hearing
Newport News City Council Chamber, City Hall Building, 2400 Washington Avenue, Newport News, Virginia.

† **September 23, 2002 - 1:30 p.m.** -- Public Hearing
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

† **October 4, 2002 - 9:30 a.m.** -- Public Hearing
Roanoke City Council Chamber, Noel C. Taylor Municipal Building, 215 Church Avenue, S.W., Roanoke, Virginia.

A public hearing to examine the feasibility and appropriateness of regulating estheticians and electrologists in Virginia.

Contact: Karen O'Neal, Deputy Director for Regulatory Programs, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-6946, e-mail BPOR@dpor.state.va.us.

† **September 23, 2002 - 9:30 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A general board meeting.

Contact: Karen O'Neal, Deputy Director for Regulatory Programs, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-6946, e-mail BPOR@dpor.state.va.us.

REAL ESTATE BOARD

July 31, 2002 - 7 p.m. -- Open Meeting
Fairfax County Government Center, 12000 Government Center Parkway, Fairfax, Virginia.  (Interpreter for the deaf provided upon request)

A meeting to provide a public forum to address Community Association issues. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the department at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-2475, (804) 367-9753/TTY , e-mail reboard@dpor.state.va.us.

Calendar of Events

† **September 11, 2002 - 1 p.m.** -- Public Hearing
Department of Professional and Occupational Regulation,
3600 West Broad Street, 5th Floor, Richmond, Virginia. (Interpreter for the deaf provided upon request)

September 30, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Real Estate Board intends to amend regulations entitled: **18 VAC 135-20. Real Estate Board Rules and Regulations.** The purpose of the proposed action is to make general clarifying changes; impose less burdensome requirements for reciprocal applicants; clarify language regarding applicants with criminal convictions; revise language regarding the supervision of branch offices to focus on the actual supervision provided rather than the physical location of the office; add clarifying language to the escrow provisions; revise the advertising provisions to incorporate Internet advertising; and combine Parts V and VI, Standards of Practice and Conduct.

Statutory Authority: § 54.1-2105 of the Code of Virginia.

Contact: Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-2475, (804) 367-9753/TTY, e-mail reboard@dpor.state.va.us.

† **September 11, 2002 - 1 p.m.** -- Public Hearing
Department of Professional and Occupational Regulation,
3600 West Broad Street, 5th Floor, Richmond, Virginia. (Interpreter for the deaf provided upon request)

September 30, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Real Estate Board intends to amend regulations entitled: **18 VAC 135-40. Real Estate Board Time-Share Regulations.** The purpose of the proposed action is to ensure that the regulations remain consistent with the Time-Share Act and to create a regulatory framework to protect the public when purchasing or utilizing a time-share project.

Statutory Authority: §§ 54.1-2105 and 55-396 of the Code of Virginia.

Contact: Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-2475, (804) 367-9753/TTY, e-mail reboard@dpor.state.va.us.

† **September 11, 2002 - 1 p.m.** -- Public Hearing
Department of Professional and Occupational Regulation,
3600 West Broad Street, 5th Floor, Richmond, Virginia. (Interpreter for the deaf provided upon request)

September 30, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Real Estate Board intends to amend regulations entitled: **18 VAC 135-50. Real Estate Board Fair Housing Regulations.** The purpose of the proposed action is to amend existing fair housing regulations to reflect changes in the Code of Virginia and federal law.

Statutory Authority: §§ 36-96.20 and 54.1-2105 of the Code of Virginia.

Contact: Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-2475, (804) 367-9753/TTY, e-mail reboard@dpor.state.va.us.

REAL ESTATE APPRAISER BOARD

† **August 6, 2002 - 10 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A business meeting.

Contact: Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-2475, (804) 367-9753/TTY, e-mail reboard@dpor.state.va.us.

† **September 11, 2002 - 1 p.m.** -- Public Hearing
Department of Professional and Occupational Regulation,
3600 West Broad Street, 5th Floor, Richmond, Virginia. (Interpreter for the deaf provided upon request)

September 30, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the Real Estate Appraiser Board intends to amend regulations entitled: **18 VAC 130-20. Real Estate Board Regulations.** The purpose of the proposed action is to incorporate changes to criteria set forth by the Appraiser Qualifications Board and standards set by the Appraisal Standards Board of the Appraisal Foundation, permit renewal on inactive status, and make clarifying changes.

Statutory Authority: § 54.1-2013 of the Code of Virginia.

Contact: Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St.,

Richmond, VA 23230, telephone (804) 367-8552, FAX (804) 367-2475, (804) 367-9753/TTY ☎, e-mail reboard@dpor.state.va.us.

VIRGINIA RESOURCES AUTHORITY

August 13, 2002 - 9 a.m. -- Open Meeting
Virginia Resources Authority, 707 East Main Street, 2nd Floor Conference Room, Richmond, Virginia. ♿

A regular meeting of the Board of Directors to (i) review and, if appropriate, approve the minutes from the most recent monthly meeting; (ii) review the authority's operations for the prior month; (iii) review applications for loans submitted to the authority for approval; (iv) consider loan commitments for approval and ratification under its various programs; (v) approve the issuance of any bonds; (vi) review the results of any bond sales; and (vii) consider such other matters and take such other actions as it may deem appropriate. Various committees of the Board of Directors may also meet immediately before or after the regular meeting and consider matters within their purview. The planned agenda of the meeting and any committee meetings will be available at the offices of the authority one week prior to the date of the meeting. Any person who needs any accommodation in order to participate in the meeting should contact the authority at least 10 days before the meeting so that suitable arrangements can be made.

Contact: Bonnie R.C. McRae, Executive Assistant, Virginia Resources Authority, 707 E. Main St., Suite 1350, Richmond, VA 23219, telephone (804) 644-3100, FAX (804) 644-3109, e-mail bmcrae@vra.state.va.us.

STATE BOARD OF SOCIAL SERVICES

August 2, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to amend regulations entitled: **22 VAC 40-71. Standards and Regulations for Licensed Assisted Living Facilities.** The purpose of the proposed action is to rename "adult care residence" to "assisted living facility," allow for a shared administrator for an assisted living facility and a nursing home, and establish requirements for special care units for residents with serious cognitive impairments due to dementia.

Statutory Authority: §§ 63.1-25 and 63.1-174 of the Code of Virginia.

Contact: Judy McGreal, Program Development Consultant, Department of Social Services, Division of Licensing Programs, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1792, FAX (804) 692-2370 or e-mail jzm7@dss.state.va.us.

September 13, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Board of Social Services intends to adopt regulations entitled: **22 VAC 40-675. Personnel Policies for Local Departments of Social Services.** The purpose of the proposed action is to provide a uniform set of personnel policies to guide operations in local departments of social services in Virginia. Many of the policies are already in use.

Statutory Authority: §§ 63.1-25 and 63.1-26 of the Code of Virginia.

Contact: Lori A. Kam, Human Resources Manager II, Department of Social Services, Division of Human Resources Management, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1520, FAX (804) 692-1560 or e-mail lak900@dss.state.va.us.

† August 14, 2002 - 9 a.m. -- Open Meeting

† August 15, 2002 - 9 a.m. -- Open Meeting
Comfort Suites, 4195 Main Street, Chincoteague, Virginia. ♿

A formal business meeting of the board. Public comment will be received at 1:30 p.m. on August 14.

Contact: Pat Rengnerth, Board Liaison, State Board of Social Services, 730 E. Broad St., Suite 812, Richmond, VA 23219-1849, telephone (804) 692-1826, FAX (804) 692-1962, (800) 828-1120/TTY ☎

September 20, 2002 - 10 a.m. -- Open Meeting

Department of Social Services, 730 East Broad Street, 8th Floor, Conference Room, Richmond, Virginia. ♿

A regular business meeting of the Family and Children's Trust Fund Board of Trustees.

Contact: Nan McKenney, Executive Director, State Board of Social Services, 730 E. Broad St., Richmond, VA 23219-1849, telephone (804) 692-1823, FAX (804) 692-1869.

BOARD FOR PROFESSIONAL SOIL SCIENTISTS AND WETLAND PROFESSIONALS

NOTE: CHANGE IN MEETING DATE

August 20, 2002 - 10 a.m. -- Open Meeting

Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♿

A general board meeting.

Contact: Werner Versch II, Regulatory Boards Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2406, FAX (804) 367-6946, e-mail soilscientist@dpor.state.va.us.

DEPARTMENT OF TECHNOLOGY PLANNING

Wireless E-911 Services Board


† August 28, 2002 - 10 a.m. -- Open Meeting

Department of Information Technology, 110 South 7th Street, 3rd Floor Conference Room, Richmond, Virginia. ♿
(Interpreter for the deaf provided upon request)

Calendar of Events

A regular meeting of the Wireless E-911 Services Board.


Contact: Steven Marzolf, Public Safety Communications Coordinator, Department of Technology Planning, 110 S. 7th St., Richmond, VA, telephone (804) 371-0015, e-mail smarzolf@ntp.state.va.us.

† **August 28, 2002 - 9 a.m.** -- Open Meeting
Department of Information Technology, 110 South 7th Street, 3rd Floor Conference Room, Richmond, Virginia. 
(Interpreter for the deaf provided upon request)

A request will be made to hold the meeting in closed session.

Contact: Steven Marzolf, Public Safety Communications Coordinator, Department of Technology Planning, 110 S. 7th St., Richmond, VA, telephone (804) 371-0015, e-mail smarzolf@ntp.state.va.us.

VIRGINIA TOBACCO SETTLEMENT FOUNDATION

September 10, 2002 - 1:30 p.m. -- Open Meeting
The Siegel Center, 1200 W. Broad Street, Founder Room, Richmond, Virginia. 

A meeting of the Board of Trustees to discuss the budget.


Contact: Eloise Burke, Administrative Specialist, Virginia Tobacco Settlement Foundation, 701 E. Franklin St., Suite 501, Richmond, VA 23219, telephone (804) 786-2523, FAX (804) 225-2272, e-mail eburke@tsf.state.va.us.

COMMONWEALTH TRANSPORTATION BOARD

† **August 14, 2002 - 1 p.m.** -- Open Meeting
Department of Transportation, 1221 East Broad Street, Auditorium, Richmond, Virginia. 

A work session of the Commonwealth Transportation Board and the Department of Transportation staff.


Contact: Sandra M. Mills, Assistant Legislative Coordinator, Department of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 225-4701, FAX (804) 225-4700, e-mail sandee.mills@VirginiaDOT.org.

† **August 15, 2002 - 10 a.m.** -- Open Meeting
Department of Transportation, 1221 East Broad Street, Auditorium, Richmond, Virginia. 


A monthly meeting of the Commonwealth Transportation Board to vote on proposals presented regarding bids, permits, additions and deletions to the highway system, and any other matters requiring board approval. Public comment will be received at the outset of the meeting on items on the meeting agenda for which the opportunity for public comment has not been afforded the public in another forum. Remarks will be limited to five minutes. Large groups are asked to select one individual to speak for the group. The board reserves the right to amend these conditions. Separate committee meetings may be held on call of the chairman. Contact VDOT Public Affairs at (804) 786-2715 for schedule.


Contact: Sandra M. Mills, Assistant Legislative Coordinator, Department of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 225-4701, FAX (804) 225-4700, e-mail sandee.mills@VirginiaDOT.org.

BOARD OF VETERINARY MEDICINE


† **August 22, 2002 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia. 

A general business meeting to include consideration of the AVMA's opposition to the AAVSB's Program for the Assessment of Veterinary Education Equivalence and the drafting of "clean-up" legislation to repeal §§ 54.1-3805.1 and 54.1-3804.1 of the Code of Virginia. Other regulatory and disciplinary matters may be considered as presented on the agenda. Public comment will be received at the beginning of the meeting.

Contact: Elizabeth A. Carter, Ph.D., Executive Director, Board of Veterinary Medicine, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9915, FAX (804) 662-9504, (804) 662-7197/TTY , e-mail ecarter@dhp.state.va.us.

† **August 22, 2002 - 9 a.m.** -- Public Hearing
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia. 

The board will hear comment on proposed regulation, 18 VAC 150-20.

Contact: Elizabeth A. Carter, Ph.D., Executive Director, Board of Veterinary Medicine, Southern States Bldg., 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9915, FAX (804) 662-9504, (804) 662-7197/TTY , e-mail ecarter@dhp.state.va.us.


VIRGINIA VOLUNTARY FORMULARY BOARD

August 8, 2002 - 10:30 a.m. -- Open Meeting
Washington Building, 1100 Bank Street, 2nd Floor Conference Room, Richmond, Virginia. 

A meeting to consider public hearing comments and evaluate data submitted by pharmaceutical manufacturers and distributors for products being considered for inclusion in the Virginia Voluntary Formulary.

Contact: James K. Thomson, Director, Bureau of Pharmacy Services, Department of Health, 101 N. 14th St., Room S-45, P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-4326.

VIRGINIA WASTE MANAGEMENT BOARD

July 31, 2002 - 2 p.m. -- Open Meeting
Department of Environmental Quality, 629 East Main Street, Richmond, Virginia. 

A meeting to receive comments on the Virginia Waste Management Board's intent to amend 9 VAC 20-60,

Hazardous Waste Management Regulations, and consider increasing the fee amounts set forth in the regulation.

Contact: Robert G. Wickline, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4213, e-mail rgwickline@deq.state.va.us.

July 31, 2002 - 2 p.m. -- Open Meeting

Department of Environmental Quality, 629 East Main Street, Richmond, Virginia. ☎

A meeting to receive comments on the Virginia Waste Management Board's notice of intent to amend 9 VAC 20-90, Solid Waste Facility Permit Applications Fees regulation, establishing fees for permitting solid waste management facilities.

Contact: Michael Dieter, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4146, e-mail mjdieter@deq.state.va.us.

VIRGINIA BOARD FOR WASTE MANAGEMENT FACILITY OPERATORS

† **October 3, 2002 - 10 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A meeting to conduct routine business. A public comment period will be held at the beginning of the meeting.

Contact: David Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2648, FAX (804) 367-6128, (804) 367-9753/TTY ☎, e-mail wastemgt@dpor.state.va.us.

STATE WATER CONTROL BOARD

July 31, 2002 - 2 p.m. -- Open Meeting
Department of Environmental Quality, 629 East Main Street, Richmond, Virginia. ☎

A public meeting to receive comments on a notice of intent to amend the State Water Control Board's regulation establishing fees for permits and certificates.

Contact: Jon VanSoestbergen, Department of Environmental Quality, P.O. Box 10009 Richmond, VA 23240, telephone (804) 698-4117, e-mail jvansoest@deq.state.va.us.

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August 7, 2002 - 2 p.m. -- Public Hearing
Department of Forestry, 900 Natural Resources Drive, Fontaine Research Park, 1st Floor Training Room, Charlottesville, Virginia. ☎

August 30, 2002 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 2.2-4007 of the Code of Virginia that the State Water Control Board intends to amend regulations entitled: **9 VAC 25-195. General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Concentrated Aquatic Animal**

Production Facilities. The purpose of the proposed action is to reissue the general permit for animal production facilities that establishes limitations and monitoring requirements for point source discharges from fish farms or other aquatic animal production facilities.

Statutory Authority: § 62.1-44.15(10) of the Code of Virginia.

Contact: Michael Gregory, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4065, FAX (804) 698-4032 or e-mail mbgregory@deq.state.va.us.

VIRGINIA BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

September 19, 2002 - 8:30 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 5W, Richmond, Virginia. ☎

A meeting to conduct routine business. A public comment period will be held at the beginning of the meeting.

Contact: David Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2648, FAX (804) 367-6128, (804) 367-9753/TTY ☎, e-mail waterwasteoper@dpor.state.va.us.

INDEPENDENT

STATE LOTTERY BOARD

September 11, 2002 - 9 a.m. -- Open Meeting
Lottery Headquarters, Pocahontas Building, 900 East Main Street, Richmond, Virginia. ☎

A regular board meeting.

Contact: Barbara L. Robertson, Board, Legislative and Regulatory Coordinator, State Lottery Board, 900 E. Main St., Richmond, VA 23219, telephone (804) 692-7105, FAX (804) 692-7775, e-mail brobertson@valottery.state.va.us.

VIRGINIA RETIREMENT SYSTEM

August 13, 2002 - Noon -- Open Meeting
† **October 16, 2002 - Noon** -- Open Meeting
VRS Headquarters, 1200 East Main Street, Richmond, Virginia. ☎

A regular meeting of the Optional Retirement Plan Advisory Committee.

Contact: Darla K. Glazier, Office Manager, Virginia Retirement System, 1200 E. Main St., Richmond, VA 23219, telephone (804) 649-8059, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY ☎, e-mail dglazier@vrs.state.va.us.

Calendar of Events

August 14, 2002 - Noon -- Open Meeting
VRS Headquarters, 1200 East Main Street, Richmond, Virginia. ☎

Meetings of the following committees:

Audit and Compliance Committee - Noon
Benefits and Actuarial Committee - 1 p.m.
Administration and Personnel Committee - 2:30 p.m.
Investment Advisory Committee - 3 p.m.

Contact: Darla K. Glazier, Office Manager, Virginia Retirement System, P.O. Box 2500, Richmond, VA 23218, telephone (804) 649-8059, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY ☎, e-mail dkestner@vrs.state.va.us.

August 15, 2002 - 9 a.m. -- Open Meeting
† October 17, 2002 - 9 a.m. -- Open Meeting
VRS Headquarters, 1200 East Main Street, Richmond, Virginia. ☎

A regular meeting of the Board of Trustees.

Contact: Darla K. Glazier, Office Manager, Virginia Retirement System, P.O. Box 2500, Richmond, VA 23218, telephone (804) 649-8059, FAX (804) 786-1541, toll-free (888) 827-3847, (804) 344-3190/TTY ☎, e-mail dkestner@vrs.state.va.us.

LEGISLATIVE

JOINT COMMISSION ON ADMINISTRATIVE RULES

† September 4, 2002 - 1 p.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, Senate Room A, Richmond, Virginia.

A general meeting. Individuals requiring interpreter services or other accommodations should contact Senate Committee Operations. Inquiries regarding the agenda should be directed to Jennifer Garey, Division of Legislative Services, (804) 786-3591.

Contact: Nathan A. Hatfield, Senate Committee Operations, P.O. Box 396, Richmond, VA 23218, telephone (804) 698-7450 or (804) 698-7419/TTY ☎

VIRGINIA CODE COMMISSION

† August 21, 2002 - 10 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, 6th Floor, Speaker's Conference Room, Richmond, Virginia.

A meeting to discuss various options for publishing the Code of Virginia. Public comments will be received at the end of the meeting.

Contact: Jane Chaffin, Registrar of Regulations, Virginia Code Commission, General Assembly Bldg., 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591, FAX (804) 692-0625, e-mail jchaffin@leg.state.va.us.

CONSUMER ADVISORY BOARD OF THE VIRGINIA ELECTRICAL UTILITY RESTRUCTURING ACT

September 11, 2002 - 10 a.m. -- Open Meeting
October 10, 2002 - 10 a.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, Senate Room B, Richmond, Virginia.

A general meeting. Individuals requiring interpreter services or other accommodations should contact Senate Committee Operations.

Contact: Thomas C. Gilman, Senate Committee Operations, P.O. Box 396, Richmond, VA 23218, telephone (804) 698-7450 or (804) 698-7419/TTY ☎

VIRGINIA FREEDOM OF INFORMATION ADVISORY COUNCIL

August 19, 2002 - 2 p.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A regular meeting.

Contact: Maria J.K. Everett, Executive Director, Virginia Freedom of Information Advisory Council, 910 Capitol St., Richmond, VA 23219, telephone (804) 225-3056, FAX (804) 371-0169, toll-free (866) 448-4100, e-mail foiaacouncil@leg.state.va.us.

JOINT SUBCOMMITTEE STUDYING THE EFFECTIVENESS AND COSTS OF THE GUARDIAN AD LITEM PROGRAM

August 1, 2002 - 1 p.m. -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room C, Richmond, Virginia. ☎

A regular meeting. Questions about the agenda should be addressed to Robie Ingram, Division of Legislative Services, (804) 786-3591.

Contact: Anne R. Howard, House Committee Operations, P.O. Box 406, Richmond, VA 23218, telephone (804) 698-1540 or (804) 786-2369/TTY ☎

JOINT COMMISSION ON TECHNOLOGY AND SCIENCE

† July 31, 2002 - 1 p.m. -- Open Meeting
DynCorp, Chantilly, Virginia.

A commission meeting on cybercrimes.

Contact: Mitchell Goldstein, Director, Joint Commission on Technology and Science, 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591, e-mail jcots@leg.state.va.us.

† August 1, 2002 - 10 a.m. -- Open Meeting
CIT Headquarters, Herndon, Virginia.

The first meeting of the CIT Advisory Committee. For more information, please see the JCOTS website.

Contact: Mitchell Goldstein, Director, Joint Commission on Technology and Science, 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591, e-mail jcots@leg.state.va.us.

† **August 6, 2002 - 10 a.m.** -- Open Meeting
General Assembly Building, 9th and Broad Streets, House Room D, Richmond, Virginia. ♿

The first meeting of the Privacy Advisory Committee.

Contact: Mitchell Goldstein, Director, Joint Commission on Technology and Science, 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591, e-mail jcots@leg.state.va.us.

CHRONOLOGICAL LIST

OPEN MEETINGS

July 29

† Environmental Quality, Department of
Local Government, Commission on

July 30

Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers, and Landscape Architects,
Board for
- Landscape Architects Section
Competition Council, Commonwealth
Conservation and Recreation, Department of
- Southwest Virginia Museum Historical State Park Master
Plan Advisory Committee
Funeral Directors and Embalmers, Board of
- Special Conference Committee
Museum of Fine Arts, Virginia
- Museum Expansion Committee
Nursing, Board of
- Special Conference Committee

July 31

Architects, Professional Engineers, Land Surveyors,
Certified Interior Designers, and Landscape Architects,
Board for
- Architects Section
Branch Pilots, Board for
† Conservation and Recreation, Department of
- Bear Creek Lake State Park Master Plan Advisory
Committee
- Sailors Creek Battlefield Historic State Park Master Plan
Technical Advisory Committee
† Environmental Quality, Department of
Medicine, Board of
- Informal Conference Committee
† Mental Health, Mental Retardation and Substance Abuse
Services, Department of
† Museum of Fine Arts, Virginia
Real Estate Board
† Technology and Science, Joint Commission on
Waste Management Board, Virginia
Water Control Board, State

August 1

Branch Pilots, Board for
† Environmental Quality, Department of
Guardian Ad Litem Program, Joint Subcommittee Studying
the Effectiveness and Costs of the
Nursing, Board of
- Special Conference Committee
† Technology and Science, Joint Commission on

August 2

Art and Architectural Review Board
Dentistry, Board of
- Informal Conference Committee
Medicine, Board of
- Credentials Committee
- Executive Committee
- Informal Conference Committee
† Opticians, Board for

August 5

Nursing, Board of
- Special Conference Committee

August 6

Audiology and Speech-Language Pathology, Board of
- Legislative/Regulatory Committee
Environmental Quality, Department of
Hopewell Industrial Safety Council
Nursing, Board of
- Special Conference Committee
† Real Estate Appraiser Board
† Technology and Science, Joint Commission on
- Privacy Advisory Committee

August 7

† Conservation and Recreation, Department of
- Mason Neck State Park Master Plan Committee
† Contractors, Board for
- Tradesman Committee
† Deaf and Hard-of-Hearing, Department for the
Game and Inland Fisheries, Board of
Geology, Board for
† Medicine, Board of
- Credentials Committee
- Informal Conference Committee

August 8

† Assistive Technology Loan Found Authority
- Board of Directors
† Child Day-Care Council
† Conservation and Recreation, Department of
- Sailors Creek Battlefield Historic State Park Master Plan
Technical Advisory Committee
Land Evaluation Advisory Council, State
Medical Assistance Services, Department of
- Medicaid Drug Utilization Review Board
Motor Vehicles, Department of
- Digital Signature Implementation Workgroup
Voluntary Formulary Board, Virginia

August 9

Agriculture and Consumer Services, Department of
- Virginia Soybean Board

August 12

Nursing, Board of
- Special Conference Committee
† Old Dominion University
- Executive Committee

Calendar of Events

August 13

- Nursing, Board of
 - Special Conference Committee
- Resources Authority, Virginia
 - Board of Directors
- Retirement System, Virginia
 - Optional Retirement Plan Advisory Committee

August 14

- Architects, Professional Engineers, Land Surveyors, Certified Interior Designers, and Landscape Architects, Board for
 - Professional Engineers Section
- † Cemetery Board
- Motor Vehicles, Department of
 - Medical Advisory Board
- Retirement System, Virginia
 - Administration and Personnel Committee
 - Audit and Compliance Committee
 - Benefits and Actuarial Committee
 - Investment Advisory Committee
- † Social Services, State Board of
- † Transportation Board, Commonwealth

August 15

- Architects, Professional Engineers, Land Surveyors, Certified Interior Designers, and Landscape Architects, Board for
 - Interior Designer Section
- Audiology and Speech-Language Pathology, Board of
- † Conservation and Recreation, Department of
- Design-Build/Construction Management Review Board
- Medicine, Board of
 - Informal Conference Committee
- Retirement System, Virginia
- † Social Services, State Board of
- † Transportation Board, Commonwealth

August 16

- † Fire Services Board, Virginia
 - Administration and Policy Committee
 - Finance Committee
 - Fire Education and Training Committee
 - Fire Prevention and Control Committee

August 17

- † Fire Services Board, Virginia

August 19

- † Agriculture and Consumer Services, Department of
 - Virginia Irish Potato Board
- Freedom of Information Advisory Council, Virginia
- † Pharmacy, Board of

August 20

- † Soil Scientists and Wetland Professionals, Board for Professional

August 21

- Agriculture and Consumer Services, Department of
 - Virginia Egg Board
- † Code Commission, Virginia
- Medicine, Board of
 - Informal Conference Committee

August 22

- Game and Inland Fisheries, Board of
- † Gaming Commission, Charitable
- † Veterinary Medicine, Board of

August 23

- Dentistry, Board of
 - Special Conference Committee

August 27

- † Compensation Board
- Marine Resources Commission

August 28

- Accountancy, Board of
 - Enforcement Committee
- Education, Board of
 - Committee to Enhance the K-12 Teaching Professions
- Milk Commission, State
- † Technology Planning, Department of
 - Wireless E-911 Services Board CMRS Subcommittee

August 29

- Nursing, Board of
 - Special Conference Committee

September 3

- Hopewell Industrial Safety Council

September 4

- † Administrative Rules, Joint Commission on
- Medicine, Board of
 - Informal Conference Committee

September 5

- † Land Evaluation Advisory Council, State

September 6

- Art and Architectural Review Board
- † Conservation and Recreation, Board of

September 10

- Architects, Professional Engineers, Land Surveyors, Certified Interior Designers, and Landscape Architects, Board for
- Funeral Directors and Embalmers, Board of
- Tobacco Settlement Foundation, Virginia
 - Board of Trustees

September 11

- Education, Board of
 - Committee to Enhance the K-12 Teaching Professions
- † Electrical Utility Restructuring Act, Virginia
 - Consumer Advisory Board
- Lottery Board, State

September 12

- Environmental Quality, Department of

September 13

- † Old Dominion University
 - Board of Visitors

September 17

- † Medicine, Board of
 - Informal Conference Committee

September 18

- Medicine, Board of
 - Informal Conference Committee
- Polygraph Examiners Advisory Board

September 19

- Design-Build/Construction Management Review Board
- Waterworks and Wastewater Works Operators

September 20

- Social Services, State Board of
 - Family and Children's Trust Fund Board of Trustees

September 23

- Library Board, State
 - Archival and Information Systems

- Collection Management Services Committee
- Legislative and Finance Committee
- Publications and Educational Services Committee
- Public Library Development Committee
- Records Management Committee

Nursing, Board of

† Professional and Occupational Regulation, Board for

September 24

Marine Resources Commission

September 25

Nursing, Board of

September 26

† Education, Board of

Nursing, Board of

October 2

† Medicine, Board of

October 3

† Waste Management Facility Operators, Virginia Board for

October 4

Art and Architectural Review Board

October 8

Medical Assistance Services, Board of

Nursing, Board of

- Special Conference Committee

October 10

† Electrical Utility Restructuring Act, Virginia

- Consumer Advisory Board

Motor Vehicles, Department of

- Digital Signature Implementation Workgroup

Environmental Quality, Department of

Nursing, Board of

- Special Conference Committee

October 16

† Education, Board of

† Retirement System, Virginia

- Optional Retirement Plan Advisory Committee

October 17

† Design-Build/Construction Management Review Board

† Education, Board of

- State Special Education Advisory Committee

† Retirement System, Virginia

- Board of Trustees

October 18

† Education, Board of

- State Special Education Advisory Committee

October 21

† Nursing, Board of

- Special Conference Committee

† Old Dominion University

- Executive Committee

October 22

† Nursing, Board of

- Special Conference Committee

October 29

† Nursing, Board of

- Special Conference Committee

July 31

Environmental Quality, Department of

August 2

Dentistry, Board of

August 6

Audiology and Speech-Language Pathology, Board of

† Environmental Quality, Department of

August 7

Water Control Board, State

August 8

† Environmental Quality, Department of

August 13

† Air Pollution Control Board, State

August 14

† Health, Department of

August 19

Pharmacy, Board of

August 21

Contractors, Board for

August 22

† Veterinary Medicine, Board of

September 10

† Barbers and Cosmetology, Board for

† Funeral Directors and Embalmers, Board of

September 11

† Real Estate Board

† Real Estate Appraiser Board

September 20

† Professional and Occupational Regulation, Board for

September 23

† Professional and Occupational Regulation, Board for

September 24

† Nursing, Board of

September 26

† Education, Board of

October 4

† Professional and Occupational Regulation, Board for

October 9

† Nursing Home Administrators, Board of

PUBLIC HEARINGS

July 30

Health, State Board of